

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, the 22nd April 1948.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Commandants for training of Home Guards.

* 58 Q.—SRI N. SANKARA REDDI: Will the Hon. the Home Minister be pleased to state—

(a) whether the recently appointed commandants for training Home Guards are fully qualified for the work;

(b) whether they are ex-military men; and

(c) whether any preference was given to people belonging to the districts bordering on the Nizam's Dominions?

THE HON. DR. T. S. S. RAJAN (on behalf of Hon. the Home Minister):—“(a) Yes.

“(b) Some of them are ex-military men.

“(c) No.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, whether before the selection was made, the posts were advertised for?”

THE HON. DR. T. S. S. RAJAN:—“I think so, Sir.”

SRI R. SURYANARAYANA RAO:—“May I know, Sir, whether those posts were also open to the I.N.A. men?”

THE HON. DR. T. S. S. RAJAN:—“I would request a further question to be put for further information whether exactly the I.N.A. men were informed of it or not. So far as I am able to know from the list before me, there are no I.N.A. men in the list selected so far.”

SRI R. SURYANARAYANA RAO:—“Was the selection made by Government or by any *ad hoc* committee set up for the purpose?”

THE HON. DR. T. S. S. RAJAN:—“The selection was made by the Inspector-General of Police and one or two others.”

SRI B. BHIMA RAO:—“May I know, Sir, how many have been selected?”

THE HON. DR. T. S. S. RAJAN:—“As many as 12 have been selected.”

[22nd April 1948]

SRI B. BHIMA RAO :—“ May I know how many from the districts of the Rayalaseema? ”

THE HON. DR. T. S. S. RAJAN :—“ For that I want further notice.”

SRI N. SANKARA REDDI :—“ May I know, Sir, whether the training of Home Guards has commenced actually? ”

THE HON. DR. T. S. S. RAJAN :—“ The officers are being trained for the business and as soon as they are trained, recruits will be taken for training.”

SRI R. SURYANARAYANA RAO :—“ In view of the fact that the Home Guards have to be constituted in the locality, do not Government realize the necessity for appointing people of the place in order to attract the people to the organization? ”

THE HON. DR. T. S. S. RAJAN :—“ As a matter of principle it is better that people of the particular locality are not there as officers engaged in training men and it is an advantage to have the agency of officers who do not belong to that particular district.”

SRI R. SURYANARAYANA RAO :—“ In view of the fact that this is a voluntary force, is it not desirable, Sir, that people of the locality in whom the volunteers will have confidence, are there so that they may attract the people? ”

THE HON. DR. T. S. S. RAJAN :—“ It is only a question of training officers and so, there is no difficulty at all in the matter.”

SRI B. BHIMA RAO :—“ Will the Hon. Minister furnish the names of commandants selected.”

THE HON. DR. T. S. S. RAJAN :—“ I can read it out to the House; they are—

Lt. E. P. T. Thomas, Regional Transport Officer, Vellore,
Sri Vedachalam,
Mr. P. L. Albert,
Sri A. R. Balagopal,
Sri P. K. Padmanabhan,
Sri Ratnakara Rai,
Sri Satyanarayana Reddi,
Sri V. Somasundaram,
Sri Devasagayam,
Sri V. J. Manoharan,
Second Lt. D. Reddamma, and
Sri D. Krishnamurthi.”

MR. PRESIDENT :—“ Reddamma : is it a lady? ”

THE HON. DR. T. S. S. RAJAN :—“ I am not able to find the sex but I am sure he is a gentleman and not a lady.”
(Laughter.)

22nd April 1948]

Firewood control.

* 59 Q.—SRI C. N. MUTHURANGA MUDALIYAR: Will the Hon. the Minister for Food be pleased to state—

(a) why the firewood control is still being kept up in Madras;

(b) whether the Government are aware that the control price of firewood in Madras is not much below the blackmarket price; and

(c) whether the Government will take steps immediately to remove the control?

THE HON. DR. T. S. S. RAJAN :—“(a) The Government have since issued orders for the decontrol and derationing of casuarina wood with effect from 1st May 1948 and of junglewood from 1st July 1948 in Madras City.

“(b) It is not quite clear as to what the Hon. Member means. It is, however, presumed that he considers that the existing retail prices of firewood in Madras City are high and that he requires the reasons therefor. If so, the hon. Member is informed that these rates have been fixed by the Government in accordance with the policy of the Government, viz., to reduce the subsidy borne by the Government on account of firewood rationing in Madras City to the absolute minimum. It is, however, doubtful, if after decontrol, the price of firewood under conditions of free trade, would be more favourable from the point of view of the consumer.

“(c) In view of the answer for clause (a) above, this does not arise.”

Thermal Station in Vizagapatam.

* 60 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Public Works be pleased to state what improvements the Government propose to make to the existing plant in the Vizagapatam Thermal Station to meet the growing demand for electrical energy for agricultural and industrial purposes?

THE HON. SRI M. BHAKTAVATSALAM :—“The Government have sanctioned the Vizagapatam Power House Extension Scheme at an estimated cost of Rs. 22.91 lakhs initially rising to Rs. 27 lakhs within 5 years. This scheme provides for the addition of two 1,500 K.W. turbo alternator sets to the existing plant to meet the growing demand for electrical energy in the area for agricultural, industrial and other purposes. The two sets are expected to go into commission by the middle of 1949.”

Preparation of voters' list in the Province.

* 61 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Finance be pleased to state—

(a) what arrangements the Government are making to prepare voters' lists of all adults in the Province; and

[22nd April 1948]

(b) whether there is any proposal to have the preparation of the adults' lists as well as the census both at the same time to minimize expenditure?

THE HON. SRI B. GOPALA REDDI :—“(a) & (b) Instructions from the President, Constituent Assembly, are awaited.”

Government bus service in the City of Madras.

* 62 Q.—SRI P. VEERABHADRASWAMI: Will the Hon. the Minister for Prohibition be pleased to state—

(a) the number of buses put on the road in the Madras City up to 1st February 1948, the cost and expenditure incurred for running them and the income; and

(b) the expenditure incurred on machinery and buildings for the workshop for motor repairs, the number of workmen, their salaries and other expenses up to 1st February 1948?

THE HON. SRI K. MADHAVA MENON (on behalf of Hon. the Minister for Prohibition) :—“The Government do not consider it desirable in the public interest to give financial figures for broken periods, with reference to the Government Transport Department. They are however prepared to place on the table of the House in due course a balance sheet of the Government Bus Service in the financial year based on the preliminary accounts up to the end of March 1948.”

SRI R. SURYANARAYANA RAO :—“May I know whether the transport services are to be the monopoly of Government or is there any idea of forming a company consisting of the Railway, the fleet-owners, the local bodies and the Government?”

THE HON. SRI K. MADHAVA MENON :—“That is the general policy, Sir, to have a company consisting of the Government, the Government of India who have taken over the Railways and the fleet-owners.”

SRI R. SURYANARAYANA RAO :—“Is it proposed, Sir, to form such a company even for the City of Madras?”

THE HON. SRI K. MADHAVA MENON :—“When the nationalization is completed buses in the City will also come under that scheme.”

Supply of iron and steel for the manufacturing of agricultural implements.

* 63 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Industries be pleased to state what steps are being taken by the Provincial Government to secure or provide adequate supplies of iron and steel required by factories engaged in manufacturing agricultural implements, machine tools, etc.?

THE HON. SRI H. SITARAMA REDDI :—“Iron, steel and defectives from the Provincial quota are allotted to fabricators of agricultural implements according to the needs for

22nd April 1948]

food production. Steel for factories manufacturing machine tools is supplied by the Government of India direct to these factories; but this Government are now trying to get a lump allotment under this quota and distribute it to the factories. They are also repeatedly pressing the Government of India for larger quantities of iron and steel under all quotas."

SRI R. SURYANARAYANA RAO :—" May I know, Sir, whether Government have received complaints from manufacturers of agricultural implements that in spite of repeated requests, they have not been receiving adequate quantities and they have not been able to produce larger quantity of agricultural implements? "

THE HON. SRI H. SITARAMA REDDI :—" Yes, Sir. The supply is not adequate for the entire province and so the supply to various individuals will be less."

SRI R. SURYANARAYANA RAO :—" May I know what steps this Government have taken in order that agricultural implements may be supplied in larger quantities in the interests of the Grow More Food Campaign? "

THE HON. SRI H. SITARAMA REDDI :—" As I have already said, we are pressing the Government of India for larger quantities of iron and steel for these purposes and we have also said that special allotments must be made for agricultural purposes."

MR. PRESIDENT :—" Have you been able to squeeze out anything? "

THE HON. SRI H. SITARAMA REDDI :—" Squeezing is going on, Sir, but the result is awaited." (Laughter.)

Inspector of Local Boards and Municipal Councils.

* 64 Q.—SRI H. M. JAGANNATHAM : Will the Hon. the Minister for Local Administration be pleased to state—

(a) the date on which Sri K. M. Unnithan, I.C.S., joined duty as the Inspector of Local Boards and Municipal Councils;

(b) the amount of travelling allowances drawn by Sri K. M. Unnithan, I.C.S., as Inspector of Local Boards and Municipal Councils, during the years 1944, 1945, 1946 and 1947;

(c) the number of local bodies the Inspector of Local Boards inspected or visited during the years 1944, 1945, 1946 and 1947; and

(d) the number of inspection notes the Inspector of Local Boards issued in 1944, 1945, 1946 and 1947 after his inspection of local bodies?

[22nd April 1948]

THE HON. SRI K. CHANDRAMOULI :—“(a) 20th April 1944.

						RS.
“(b) 1944	..	..	..	..	..	1,510
1945	..	..	..	—	..	2,061
1946	—	..	..	..	—	2,055
1947	..	..	..	..	..	1,495
“(c) 1944	.	..	..	..	..	38
1945	..	..	..	..	..	44
1946	..	..	—	—	..	63
1947	..	..	..	..	..	36

“(d) Statistics of the number of inspection notes issued have not been kept by the Inspector.”

SRI B. BHIMA RAO :—“Is there not a specific rule that the same officer should not continue in any particular department for more than three years?”

THE HON. SRI K. CHANDRAMOULI :—“There is no specific rule but for the convenience of the administration, they may be continued for more than three years.”

SRI B. BHIMA RAO :—“Is he still continuing in that office.”

THE HON. SRI K. CHANDRAMOULI :—“Yes, Sir.”

SRI R. SURYANARAYANA RAO :—“Is not the Inspector of Municipal Councils expected to pay at least one visit in a year to a municipality.”

THE HON. SRI K. CHANDRAMOULI :—“He is expected as far as possible; but when it is impossible, he will direct his deputy in the interests of administrative convenience.”

SRI B. BHIMA RAO :—“Is it not the experience of some of the departments to change officers every three years seeing that if allowed to remain in one place for more than three years, he is likely to develop prejudice or bias and that is the reason why Judicial Officers are transferred once in three years?”

THE HON. SRI K. CHANDRAMOULI :—“There are no allegations against him and so far the administration has been carried on efficiently and I do not think there is any necessity to transfer him.”

Tiruturaipundi Panchayat Board.

11-15
a.m.

* 65 Q.—SRI H. M. JAGANNATHAM: Will the Hon. the Minister for Local Administration be pleased to state—

(a) whether it is a fact that the Tiruturaipundi Panchayat Board, Tiruturaipundi taluk, Tanjore district, was superseded by the Inspector of Local Boards in exercise of the powers delegated

22nd April 1948]

to him by the Government and necessary notifications were published in the *Fort St. George Gazette* and, if so, the date on which the notification superseding the above Panchayat Board was published; and

(b) whether the Government are aware that the Tiruturaipundi Panchayat Board was superseded by the Inspector of Local Boards without issuing a notice to show cause why the said Panchayat Board should not be superseded as laid down under the provisions of the Madras Local Boards Act?

THE HON. SRI K. CHANDRAMOULI :—“(a) & (b) A notification superseding the Tiruturaipundi Panchayat Board was published by the Inspector of Municipal Councils and Local Boards in the *Fort St. George Gazette*, dated 9th September 1947, by mistake. The mistake was due to a clerical error. As soon as the mistake was detected on 13th September 1947, the correction was issued and also published in the *Gazette*.”

Alteration in the regulations for recruitment of District Panchayat Officers.

* 66 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Local Administration be pleased to state—

(a) whether regulations regarding methods of recruitment, etc., of the District Panchayat Officers have been recently altered;

(b) if the answer to (a) is in the affirmative, what the changes to the existing regulations are;

(c) whether the proposed amendments contemplate creation of two grades of panchayat officers;

(d) what the number of panchayat officers in each grade will be and on what basis such numbers have been determined;

(e) whether the existing panchayat officers who have put in a certain number of years of satisfactory service will automatically get into the higher grade;

(f) if the answer to (e) is in the affirmative, who the authority is who will declare the completion of such satisfactory service;

(g) whether these panchayat officers will be treated as Government servants subject to rules and regulations prescribed for Government servants; and

(h) whether the recruitment and promotions of panchayat officers are to be subject to the recommendations of the Public Service Commission?

THE HON. SRI K. CHANDRAMOULI :—“(a) Yes.

[22nd April 1948]

“(b) & (c) The service of District Panchayat Officers has been now divided into two grades and the scale of pay also has been revised as under :—

RS.

First grade 200—10—300

Second grade 150—5—200

“(d) First grade 10

Second grade 15

The number of posts in the first grade has been fixed at 10 so as to allow deserving District Panchayat Officers with long service a reasonable chance of promotion.

“(e) Promotions to first grade are made on grounds of merit and long service.

“(f) Does not arise.

“(g) No.

“(h) No.”

SRI R. SURYANARAYANA RAO :—“ May I know why recruitment to the cadre of District Panchayat Officers should not be made by the Public Service Commission instead of the Government? ”

THE HON. SRI K. CHANDRAMOULI :—“ It is more convenient to the administration if the selection is made by the Government.”

Private practice by non-honorary surgeons and physicians.

* 67 Q.—SRI P. R. K. SARMA : Will the Hon. the Minister for Public Health be pleased to state—

(a) whether non-honorary surgeons and physicians in Government service and attached to Government hospitals are allowed to have their own nursing homes and to attend to patients privately;

(b) whether exemptions are granted, and, if granted, under what circumstances and conditions;

(c) who are the physicians and surgeons who are enjoying such exemptions and to what hospitals they are attached and what their salaries, allowances, conditions of service, etc., are; and

(d) whether surgeons and physicians employed in Government hospitals are allowed to use the instruments and materials of such hospitals for attending to their private patients and, if the answer be in the affirmative, whether any fee or charge is levied and whether anybody's permission is required for the use of Government materials for private practice and profit?

THE HON. SRI A. B. SHETTY :—“ (a) Government Medical Officers including Surgeons and Physicians are not permitted to run private nursing homes and attend on patients therein

22nd April 1948]

privately. Such of the officers as are allowed consulting private practice are however at liberty to attend on private cases subject to the conditions laid down in rule 18 (c) of the Madras Medical Service Special Rules in section 16 of the Madras Services Manual, Volume II.

(b) No.

(c) Does not arise.

(d) Hospital instruments can be given on loan and the dressings supplied to the Government Medical Officers who are allowed the privilege of private practice and to the Registered Medical Practitioners in general for use in connexion with their private cases provided, that they can be spared without detriment to the hospital work and also subject to the following conditions:—

(1) The ordinary instruments can be loaned on an application to the Resident Medical Officer of the hospital. The special instruments will only be loaned by the Resident Medical Officer of the hospital with the approval of the Surgeon or Specialist as the case may be.

(2) The Medical Officers and Medical Practitioners shall be responsible for the safe custody of the instruments and shall make good any loss or damage from whatever cause.

(3) They shall pay the following charges:—

(i) *For instruments.*—Five per cent of their value per diem, the value being taken to be the value as entered in the current priced vocabulary of the Madras Medical Stores Depot, subject to a minimum of Re. 1 and a maximum of Rs. 10 per diem.

(ii) *For dressings.*—The actual cost of the dressings supplied subject to a minimum of Re. 1 and a maximum of Rs. 3 for the dressings supplied on each occasion."

SRI R. SURYANARAYANA RAO:—" May I know how much amount has been collected by way of charges for the loan of hospital instruments to private practitioners? "

THE HON. SRI A. B. SHETTY:—" I have no information. A separate question may be put."

SRI R. SURYANARAYANA RAO:—" Is it a fact that the loan of hospital instruments to private practitioners is more a rule than an exception and, if so, will the Government take steps to prevent it? "

THE HON. SRI A. B. SHETTY:—" So far as I know, there has been no such complaint. This is allowed with a view to provide facilities for private practitioners."

[22nd April 1948]

MR. PRESIDENT :—“ I gather that the Council will have to sit in June. If so, will the Hon. Minister for Public Works consider the feasibility of introducing air-conditioning in the House? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ I do not know whether that will be possible.”

MR. PRESIDENT :—“ The Hon. Leader of the House has given notice of a motion to take into consideration the draft of the new Constitution of India. When will the House like to take it, to-morrow or the day after? The Hon. Leader of the House will not be present from the 27th April.”

THE HON. DR. T. S. S. RAJAN :—“ Sir, that may be taken up as soon as the Bills pending before the House are over. As far as I am concerned, I will be present here till the 26th. On the 27th, myself and the Premier have to leave for Delhi. We will be returning after four days.”

DR. SYED TAJUDDIN SAHIB BAHADUR :—“ Are we sitting the whole of to-morrow, because it is a lunar eclipse day? ”

THE HON. DR. T. S. S. RAJAN :—“ The eclipse is not visible in this part of the world. So, the matter may as well be ignored.”

MR. PRESIDENT :—“ I will include the item in to-morrow's agenda after the items relating to Bills.”

UNSTARRED QUESTIONS.

Extent of cultivable and cultivated lands in the districts.

11 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) the extent of wet lands in each district of the Province, the extents on which paddy and sugarcane were respectively raised and the extent which is left uncultivated, during the last three faslis;

(b) the quantity of paddy produced in each district in each of the three faslis;

(c) the extent of dry cultivable lands in each district of the Province, the extent on which millets and other food crops was raised, the extent on which commercial crops such as groundnuts, cotton, tobacco is raised, together with details thereof, during the above period and also the extent of dry cultivable area left uncultivated; and

(d) the quantity of each variety of foodgrain as also of each of the commercial crops produced in each district of the Province during the above period?

22nd April 1948]

A.—(a) Figures showing the extent of wet cultivable land and the extent of wet land which is left uncultivated are not compiled. Appendix IV of the Season and Crop Report published by the Board of Revenue (Civil Supplies) every year shows the area of different irrigated crops including paddy and sugarcane.

(b) & (d) The information will be found in Appendix IX of the Season and Crop Report.

(c) Figures showing the extent of dry cultivable lands and the extent of dry cultivable area left uncultivated have not also been compiled. Appendix VI of the Season and Crop Report shows the unirrigated area of different crops.

(Note.—Copies of the Season and Crop Report for the last three fasli years have been placed on the table of the Legislature Library.)

Bellary Central Co-operative Stores.

12 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Food be pleased to state—

(a) whether the Collector of Bellary issued instructions to the authorities of Bellary Central Co-operative Stores to take delivery of the rice milled in the local factory and issue the same to ration shops in the last week of December 1947;

(b) whether the authorities of the Co-operative Stores disobeyed the instructions and distributed paddy received from Tanjore district to the ration shops; and whether the ration shops supplied paddy only to the citizens of Bellary in the last week of December 1947, causing considerable hardship and inconvenience; and

(c) what action the Government propose to take in respect of the refusal to carry out the instructions of the Collector by the authorities of the Bellary Central Co-operative Stores?

Answer.—(a) No. The Secretary, Bellary Central Co-operative Stores, Bellary, was informed by the Collector on 10th December 1947 that about 3,000 bags of paddy would be hulled into rice for issue in the statutory rationed area.

(b) No. The Bellary Central Co-operative Stores neither refused to carry out the instructions nor disobeyed the Collector. As the stock of rice received in the district exhausted and as the stock of rice hulled

[22nd April 1948]

from Tanjore paddy to that date was not enough to meet the requirements of one week, paddy only was released during the last week of December 1947. It may have caused some inconvenience to the public but this could not be helped as the hulled rice had to be exposed to air, bagged and standardized before issue to the retailers.

(c) In view of the answer to (b) above, this does not arise.

Juvenile Court in the City.

13 Q.—MRS. M. N. CLUBWALA : Will the Hon. the Minister for Agriculture be pleased to state—

(a) whether it is a fact that the Juvenile Court in the city is presided over by men magistrates who are appointed to sit for a certain number of months or only a certain length of time;

(b) whether they are aware there are three ladies who have had experience for 12, 8 and 6 years respectively, in the Juvenile Court continuously more or less; and

(c) if so, why they were not appointed presidents of such courts instead of men magistrates?

A.—(a) The Juvenile Court in the Madras City has been presided over by men magistrates. The term of office of the presiding magistrate has not been fixed.

(b) Yes.

(c) The policy of the Government is to make these appointments according to qualifications and suitability but regardless of sex. The hon. Member is informed that there is no discrimination against women as such.

Students admitted into the various Agricultural Colleges.

14 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Agriculture be pleased to state—

(a) the number of students admitted into the various Agricultural Colleges each year during the last twelve years—communitywar, namely, Brahmans, Non-Brahmans, Muslims, Indian Christians and Anglo-Indians; and

(b) how many of them have finished the courses and taken their degrees—communitywar in each year?

22nd April 1948]

4.—(a) One thousand and forty-three students were admitted into the Agricultural Colleges during the last 12 years. The communal-war figures are given below :—

Number of candidates admitted into the Agricultural Colleges, Coimbatore and Bapatla.

Year.	Brahmins	Non-Brahmins	Muslims.	Christians.	Backward classes.	Anglo-Indians.	Scheduled classes.	Orissa students.	Total.
<i>Agricultural College, Coimbatore.</i>									
1936 ..	20	5	5	3	10	..	..	..	43
1937 ..	16	12	2	6	6	..	..	..	42
1938 ..	24	7	2	1	10	..	..	..	44
1939 ..	18	6	5	6	14	..	..	..	49
1940 ..	20	9	4	..	11	..	..	..	44
1941 ..	17	9	4	4	9	..	..	..	43
1942 ..	18	10	4	4	11	..	1	..	48
1943 ..	17	11	4	4	11	..	1	..	48
1944 ..	40	30	6	5	13	..	2	..	96
1945 ..	38	37	2	5	14	..	..	..	96
1946 ..	36	62	1	8	..	..	..	..	107
1947 ..	28	57	4	6	..	..	..	..	95

Agricultural College, Bapatla (opened in July 1945).

1945 ..	25	64	3	1	..	..	3	..	96
1946 ..	36	48	6	2	..	..	3	3	96
1947 ..	21	56	8	6	..	..	..	5	96

1,043

(b) Four hundred and eighty six candidates finished their courses and taken their degrees during the past 12 years. The communitywar figures are given below :—

The number of candidates passed out of the Agricultural College, Coimbatore.

Communitywar.

Year.	Brahman.	Non-Brahman (including backward classes).	Muslim.	Christian.	Scheduled Caste.	Total.
1936 ..	11	10	1	4	..	26
1937 ..	13	11	3	1	..	28
1938 ..	11	16	3	1	..	31
1939 ..	16	17	6	2	..	41
1940 ..	14	22	4	3	..	39
1941 ..	13	22	2	2	..	39
1942 ..	22	24	1	3	..	50
1943 ..	16	20	2	..	2	40
1944 ..	12	16	2	3	..	33
1945 ..	16	20	1	2	..	39
1946 ..	15	17	7	3	1	43
1947 ..	35	36	1	5	..	77
	144	227	33	20	3	486

a The first batch of students at the Agricultural College, Bapatla, will finish their Degree Course only in April 1948.

[22nd April 1948]

Number of cases under rule 150 of Motor Vehicles Act.

15 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Prohibition be pleased to lay on the table of the House a list of cases, which he has entertained under rule 150 of the rules framed under the Motor Vehicles Act, by way of second appeal or revision at the instance of private parties, and set aside decisions of the Central Traffic Board on appeal—as from 1st May 1946—together with the dates of orders in each case?

A.—The amount of time and labour involved in preparing the answer would be disproportionate to the possible usefulness. Answers could be given for any particular cases specified.

Subvention from the Central Road Fund.

16 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Public Works be pleased to state—

(a) the amounts received from the Central Government as subvention from the Central Road Fund during each year commencing from 1st April 1939 up to 1st April 1947; and

(b) the amounts paid or spent in each district of the Madras Province in each year since 1st April 1939 from the above fund?

A.—(a) —

Years.	Actual expenditure incurred from the allocations of the Central Road Fund.			Actual expenditure met from the Central Road Fund Reserve.		
	RS.	A.	P.	RS.	A.	P.
1939-40	21,09,216	0	7	39,918	1	4
1940-41	17,09,327	3	8	1,906	14	6
1941-42	17,16,207	0	0	—5,531	10	0
1942-43	12,66,928	7	1	7,051	8	2
1943-44	11,89,327	8	4	16,06,005	7	6
1944-45	11,69,331	0	4	907	3	10
1945-46	11,09,859	14	6	6,13,788	11	9
1946-47	6,13,702	13	7	16,25,427	13	9

(b) Separate districtwar figures are not available with the Government. They will have to be collected from the various district boards in the Province and will involve considerable delay and labour. The Government do not therefore consider it necessary to obtain the information.

22nd April 1948]

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—MESSAGES FROM THE ASSEMBLY.

MR. PRESIDENT :—“ I have to announce to the House that in accordance with rule 94 of the Madras Assembly rules, I have received messages from the Hon. the Speaker of the Madras Legislative Assembly transmitting copies of the following Bills as passed by the Assembly :—

(1) On 19th April 1948—The Madras Re-enacting and Repealing (No. I) Bill, 1948 (L.A. Bill No. 3 of 1948); the Madras Re-enacting (No. II) Bill, 1948 (L.A. Bill No. 6 of 1948); the Madras Tobacco Taxation of Sales and Licensing (Re-enacting) Bill, 1948 (L.A. Bill No. 12 of 1948); the Madras Restriction of Habitual Offenders (Amendment) Bill, 1948 (L.A. Bill No. 13 of 1948);

(2) On 20th April 1948—The Madras Re-enacting (No. III) Bill, 1948 (L.A. Bill No. 14 of 1948); the Madras Lapsed Acts (Removal of Doubts) Bill, 1948 (L.A. Bill No. 15 of 1948); the Madras Sales of Motor Spirit Taxation (Amendment) Bill, 1948 (L.A. Bill No. 16 of 1948); the Madras Civil Courts (Amendment) Bill, 1948 (L.A. Bill No. 17 of 1948);

(3) On 21st April 1948—The Police (Madras Amendment) Bill, 1947 (L.A. Bill No. 38 of 1947); the Madras Aided Institutions (Prohibition of Transfers of Property) Bill, 1948 (L.A. Bill No. 7 of 1948);

and signed by him for the concurrence of the Council.”

III.—MESSAGES FROM THE GOVERNOR.

MR. PRESIDENT :—“ I have to announce to the House the following message, dated the 2nd March 1948, from His Excellency the Governor :—

‘ In pursuance of section 82, sub-section (3), of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Restriction of Habitual Offenders Bill, 1948.’

“ I have to announce to the House the following message, dated the 7th April 1948, from His Excellency the Governor :—

‘ In pursuance of section 82, sub-section (3), of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Re-enacting (No. III) Bill, 1948.’

[Mr. President]

[22nd April 1948]

" I have to announce to the House the following message, dated, Guindy, the 29th January 1948, from His Excellency the Governor :—

' In pursuance of section 82, sub-sections (1) and (3) of the Government of India Act, 1935, I, Archibald Edward Nye, Governor of Madras, hereby recommend to the Madras Legislative Council the consideration of the Madras Public Libraries Bill, 1947.' "

IV.—GOVERNMENT BILLS.

(1) THE MADRAS RE-ENACTING AND REPEALING (NO. 1) BILL (L.A. BILL NO. 3 OF 1948).

THE HON. SRI K. MADHAVA MENON :—" Mr. President, Sir, I move—

*' that the Madras Re-enacting and Repealing (No. 1) Bill, (L.A. Bill No. 3 of 1948) * as passed by the Legislative Assembly be taken into consideration at once.'*

" The House may remember that this Bill was introduced in this House for the appointment of a Joint Select Committee. Various Acts were passed during the Advisers' regime which lapse two years after the proclamation under section 93 is revoked. The Government examined these Acts one by one to see whether there is any need to re-enact or repeal them or allow them to lapse. Most of these Acts are intended to amend the original Acts for better administration. The original Bill as it was presented to the House contained three schedules, the first schedule relating to re-enactments, the second schedule to re-enactments with modifications, and the third schedule to repeals. The Joint Select Committee found that certain Acts required further examination before they were re-enacted permanently. So there are four schedules to the Bill as it has emerged from the Committee. The first schedule deals with re-enactments, the second schedule with re-enactments with modifications, the third schedule with re-enactments for one year only, and the fourth schedule with repeals. The Bill has been thoroughly examined by the Joint Select Committee and considered and approved by the Assembly. I move that it be taken into consideration at once."

* DR. V. K. JOHN :—" Mr. President, Sir, I regret that this procedure should have been adopted by the Government for re-enacting a large number of Acts. This procedure is, in my opinion, not only irregular but also illegal. Certain Acts were passed by the Advisers' Government which functioned under section 93 of the Government of India Act, 1935. Section 93 (4) of that Act provided that these Acts should have effect only for a period of two years from the date on which the proclamation under section 93 ceased to have effect, unless they are sooner repealed or re-enacted. As such Acts lapse on the 30th of April 1948, the Government have now come forward with a Bill to re-enact certain Acts which they think are necessary to be continued.

22nd April 1948]

[Dr. V. K. John]

The Council Rules prescribe a certain procedure in respect of Bills. Somebody has to introduce and move the Bill, then it is considered in various stages and then passed into law. That procedure is not being followed here. It may be that during the last two years, the Government have been very busy and they could not bring each Act in the form of a Bill and pass it into law. After all, two years is a long period. They have now introduced one Bill in which there are four schedules and in each schedule there are many Acts, each Act being independent of the other. They have not chosen to give the body of the various Acts in the schedules. They want a hundred and odd Acts in the schedules passed into law in one bunch by merely passing a few sections of a principal Bill. This is book enactment or schedule enactment and not Bill enactment. I ask the question whether it is proper for the legislature to pass a large number of Acts included in the schedule of one Bill? The procedure is in total disregard of the Council Rules and shows scant courtesy to the legislature. You have not made any attempt to amend the Council Rules to enable you to do so. This is not only irregular but also illegal. I know that under the Government of India Act, a court of law cannot question any irregularity in procedure in the legislature. If any of the Acts in the schedule after re-enactment goes before a court, I am sure, it will be said that the Act was not validly passed by the legislature. The Government have therefore slept over this matter for the last two years since the proclamation under section 93 had ceased—two years is a very long period—and they now wake up and bring in all these hundred and odd Acts as Schedule to this Bill which we are asked to enact into law. Does it show any courtesy to the Legislature, I ask? Can anybody read through this ponderous book containing 165 pages of various enactments of varying importance? Are we not entitled to discuss the principles of each Bill and move amendments? Now Sir, this Bill is sought to be rushed through. The Government in the various Bills which they have brought forward in this House up to this time, have tried to exclude the jurisdiction of the court and we have often criticised such a procedure. Now in this Bill the Government are trying to exclude the jurisdiction of the legislature. We are given the right by law to discuss the principles of each Bill and to move amendments and take reasonable time for the discussion of such amendments. Sir, one of the Bills in the schedule runs into more than 50 sections and we are asked in a very short time to pass this Bill along with others in a Schedule which contains hundred and odd Bills. Sir, it does not show any respect or courtesy to the members of the legislature who are expected to discharge certain duties entrusted to them by the public and the Government are trying to prevent them from discharging those duties and responsibilities. We are asked to pass something which is no legislation at all. They will not become valid statutes, because they have not been enacted in the way in which laws have to be enacted by this

11-30
a.m.

[Dr. V. K. John]

[22nd April 1948]

House. There is here a total disregard of the provisions of law and of procedure. The result is that the time of the House is wasted and therefore I wish to raise a very serious protest against the procedure adopted by the Government. If this Bill is allowed to pass this time, I should not be surprised if the Government which has been sleeping over many other matters like this, would come up with a number of other enactments as Schedule to a Bill and ask us to pass the same, citing this as a precedent. I submit, Sir, there is no justification, either legal, equitable or moral for attempting to pass a number of Acts as a Schedule to a Bill. The Government seems to think that the re-enactment of an Act is different from enactment. There is no warrant for this conclusion. When an Act lapses, it ceases to have any effect altogether and then it must be introduced as a separate Bill and discussed and passed by the Legislature and then only it could be placed on the statute book, if it is to be re-enacted. You have always to remember the principle underlying section 93 of the Government of India Act, 1935, and that these Acts were not enacted by popular legislatures. Now I ask, why should an enactment which would lapse at the end of this month be repealed now? Why does the Government want to enact a Bill for that purpose? (Interruption.) My hon. Friend, the Law Minister, says that if an enactment lapses, it is not sufficient but that it should be repealed. To me it seems something like sending a bullet on a dead body. If it lapses, it lapses once for all. I do not think it need be repealed. It will have no force after it lapses; it would become a dead Act at the end of the month. There is no meaning in repealing it because there is nothing to repeal.

"Sir, what we are now most concerned is the procedure that is being adopted for re-enacting a large number of Bills. These Bills were passed during the Advisers' Government without having gone through any legislature and now we are asked to pass them in a lot without discussion, and without knowing their implications. That the Government has not bestowed even a little care on the wording of these enactments is clear from the various clauses of the Bill. Clause 2 says, 'The Acts specified in the First Schedule are hereby re-enacted permanently, with the modification specified in section 5.'

"Now, Sir, there is nothing like a permanent enactment on the statute book, because it is an elementary principle of constitutional law that an enactment may be repealed by a competent legislature at any time. You can never have a permanent enactment binding all the future legislatures. You can pass a Bill into law to be in operation for, say six months or one year. That is a different thing altogether, because at the end of that period it automatically lapses. If no period is specified in an Act, it means that it will remain in force until it is repealed by a competent legislature. Now the wording used in some of the Acts is that they are to be enacted permanently. Cannot a legislature to-morrow or the day after or any other future day come and say, 'We want to repeal this Bill?' That is why I say, there is nothing

22nd April 1948]

[Dr. V. K. John]

called permanent legislation and you cannot bind your successor. Therefore I submit, Sir, that the use of the words 'permanently enacted' is not correct according to the elementary principle of constitutional law."

MR. PRESIDENT :—"What harm does it do if the word 'permanent' is there?"

DR. V. K. JOHN :—"Because it might give the impression that nobody can repeal it."

MR. PRESIDENT :—"I do not think the House will accept that meaning."

DR. V. K. JOHN :—"The word used here is 'permanently.' There is no meaning or sense for that word at all in the present context, as I have explained already. We should never use words which are unnecessary in an enactment. We should not become the laughing stock of the public who read these Acts. I therefore dissociate myself from the word 'permanently' used in the Bill. If the Government says that it does not mean anything, then it ought not to be used at all; but if it says that it does mean something, then it means that the enactment is permanent and not temporary and that it will be in force for all time. I submit, Sir, that this Legislature has no power to enact anything permanently, because any of its successors can repeal it."

11-45
a.m.

MR. PRESIDENT :—"It only means enacted without any time-limit."

DR. V. K. JOHN :—"Then, Sir, every enactment that we have passed in this House is without time-limit. In the various Bills which we have passed from time to time in this House we have not used that word 'permanent.' Does the House of Commons use that word, Sir? Does any other Legislature use that word? It is not that I am hurt by the word 'permanently.' (Interruption by the Hon. Sri K. Madhava Menon.) These Acts may be quoted in Bombay, because Madras has the reputation of passing correct Bills, and they may say that Madras has passed such a Bill using the word 'permanently.' I can understand a temporary measure, but I cannot admit this wording, Sir, I am against this sort of enactment. I ask the Government to be a little more careful when they introduce such Bills. There is the excuse that they had no time to go into these Acts to bring them before the House early. Can they tell the public of this Province that for two years they had no time? They knew that these Acts were passed during the Advisers' regime and that they would lapse after a period of two years from the date of the withdrawal of the proclamation. If they tell the public that in the last two years they had no time, no officers and no staff to assist them in this matter, nobody would believe them. I say this is a reckless piece of legislation sought to be introduced by the Government utterly regardless of the rules. This is utterly discourteous to the Legislature. Having said this, I do not wish to go into the details of any Act in the Schedule. This legislation, if passed, would be

[Dr. V. K. John]

[22nd April 1948]

quite illegal. Although there are very many Acts against which criticism could be levelled, I do not propose to comment on any provision in the Bill or on any Act mentioned in the Schedule or give notice of any amendments."

SRI N. RANGA REDDI :—" Sir, I do not want to take much of the time of the House except to reply to the remarks of the hon. Leader of the Opposition. I feel that a mistake has been committed in comparing this legislation with other Bills. During the Advisers' regime a number of Acts had been enacted. This Bill is a comprehensive legislation covering all those Acts which were passed during the Advisers' regime. The Advisers considered all the aspects of these Acts and they approved of them. But unfortunately, under the Government of India Act, 1935, all the Acts passed during the Advisers' regime become invalid after the lapse of two years from the withdrawal of the Proclamation. No doubt it is true that it would be much better if every Act that has been passed is brought before this House and approved by this House. There are some matters which have already been covered by enactments, and I may say, Sir, that there was legislation even before the Legislative Councils came into existence. Those enactments have not come before this House for re-enactment. In the same manner, I beg to submit that this matter has been thoroughly considered and brought before this House. If it is found that there are any objections, it is open to us to reject that legislation. The Leader of the Opposition laid very great stress on the word 'permanently.' As I already said, Sir, it is not one single Bill. It is a comprehensive Bill dealing with Acts to be enacted for all time and with Acts which are to be in force only for a period of years. When it is said 'permanently', it does not mean that the Legislature has no power to revoke the Acts. The word is used in contradistinction to the word 'temporary.' That is all. If the word has been used in the Bill, it is because in the Bill there are two kinds of Acts, namely, some which would be in force for a few years, and some which would be there permanently. It is very necessary that the word 'permanently' is there. Otherwise, those Bills would have no meaning at all. I like to submit that the objection raised by the Leader of the Opposition that the use of the word 'permanently' is not maintainable."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, Mr. Ranga Reddi, is vehement in his speech and assertive. I want to know what is the principle in this Bill. We know that we have powers to pass Bills. As Dr John has put it will this Government be justified in asking us, at the end of the year, to pass the Bills mentioned in the Schedule? They are not going to put the Bills clause by clause or one Bill after another. They say that Bills A, B, C and D are before this House for consideration, and they want this House to pass those Bills contained in the Schedule. That is the fundamental point. I want to ask the Satyagrahi lawyers on the other side whether such a Schedule be brought to pass so many

22nd April 1948] [Sri B. Narayanaswami Nayudu]

Bills contained in it is contemplated anywhere in the Government of India Act. Mr. Ranga Reddi was very vehement that there was nothing wrong about it. I ask, Sir, have they ever heard of a Legislature being asked to pass so many enactments contained in the Schedule to the Bill. They have not understood the elements of the Advisers' regime. They had prerogative powers to pass those Acts. The Act gave powers to them to do so. They were not subject to the vote of the Legislature. But those Acts become invalid unless they receive the assent of the Legislature within two years of the withdrawal of the Proclamation. It is a very elementary principle for which we are fighting that no law should be passed by an executive authority. (Interruption by Sri N. Ranga Reddi.) The ludicrousness of the situation will be clear if you take only one Act, i.e., the Re-enacting and Repealing (No. 1) Bill. What is the principle involved in this Bill? There is no principle except that the Bills subjoined in the Schedule shall be passed. The Acts are (1) The Prisons (Madras Amendment) Act, 1940, (2) the Madras City Police (Amendment) Act, 1940, (3) the Madras Suppression of Immoral Traffic (Amendment) Act, 1940, (4) the Madras Motor Vehicles Taxation (Amendment) Act, 1940, (5) the Madras District Municipalities and Local Boards (Amendment) Act, 1940, (6) the Madras Christian Marriages Validation Act, 1940, (7) the Madras Rinderpest Act, 1940, and (8) the Indian Medical Degrees (Madras Amendment) Act, 1940, and so on. I was stupefied to see these series of Acts. But my stupefaction is nothing when I consider that the series of Acts given here specify only their numbers and do not give any details about them. We must know the nature of the Acts before we can pass them. There must have been some reasons for passing these Acts before. The only course to be adopted by Government is to bring forward these Acts one after another and then pass them into law. I ask hon. Members on the other side whether they can say that these Acts are really being considered by this House. (Dr. V. K. John :—They do not know their contents.) I do not know whether they know it or not. I submit to the consideration of the President whether Government can move a Bill like this without telling us the contents of the so many Acts, and without giving us the reasons for those Acts, and rush through this Bill. It is not at all in conformity with the rules. The whole question in the Constitution is a Bill shall be introduced and not that a Bill to pass so many Bills shall be introduced. Without meaning any disrespect to the President, I submit that the discretion to waive the three days' notice may not be exercised except in very exceptional circumstances."

MR. PRESIDENT :—" Have you not had notice of this? "

SRI B. NARAYANASWAMI NAYUDU :—" Can I know all these one hundred Acts or so, Sir? "

MR. PRESIDENT :—" You got all these after they are passed by the Assembly? "

[22nd April 1948]

SRI B. NARAYANASWAMI NAYUDU :—“ I pray that in the interests of what may be called democratic legislation, the three days' notice may be adhered to and only in extraordinary cases it should be waived.”

MR. PRESIDENT :—“ I may inform the hon. Member that I thought it was only formal and that there would not be any objection. It is with that idea I allowed it. But if the hon. Member thinks that there are enactments which are really serious, then it is really a point for consideration.”

SRI A. GOVINDACHARYULU :—“ There is one serious Bill in the list of Bills.”

12 noon. MR. PRESIDENT :—“ The hon. Member should address the Chair. He should observe a certain decorum in this House.”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, the rules require that the three days' notice should be adhered to. Apart from this, this Bill of Bills introduce so many Bills of which we have not got copies. The Government may say, you have got this Code and that Code and why do you not study them? But, the Hon. the President knows that we do not know the contents of the Bills which this House is asked to pass all on a sudden. Only the Preamble states that there is necessity to re-enact these Bills. That is a vital objection which my hon. Friend has raised and I request that a ruling may be given on this matter. Secondly, the three days' notice should be adhered to especially when there is no war or threat of war for passing of these Bills immediately.”

MR. PRESIDENT :—“ With regard to the question of three days' notice, I suppose the hon. Member knows that I have been insisting on proper notice being given when serious matters come up. But, in this case, I waived the notice because it was thought to be a formal matter. I hope hon. Members understand my position so far as this Bill is concerned. Is the hon. Member raising a point of order? I do not think the Leader of the Opposition wants to raise a point of order.”

DR. V. K. JOHN :—“ I said it is illegal. I ask for a ruling from the Chair whether a Bill introducing several Bills is legal.”

SRI B. BHIMA RAO :—“ Mr. President, Sir, I want to make a few remarks and observations as an *amicus curiae*. I feel there is considerable force in the objection that is raised by my two hon. Friends that this legislation should not be rushed through in April. I also wrote to the then Law Member—who is not here now in this House—asking him that if these Bills have to be re-enacted or modified by the end of April 1948, whether he will consider the expediency of having a Committee of lawyers to consider each Bill separately. Not only did I write that letter to the Law Minister but I also published it in the Press. It was published in the *Hindu* of 2nd July 1947 and also in the *Svathantra* of the first week of July 1947. I wanted the then Law Minister

22nd April 1948] [Sri B. Bhima Rao]

to do something in this matter so that we may consider each Bill separately and discuss the merits of each and then decide whether it should be retained on the Statute Book. Sir, in December 1947, I got the first set of Bills, that is, the Repealing Bill No. 1. As a conscientious legislator, I took all the Acts passed from 1940 to 1946 which had been promulgated during the Advisers' Government. But I found a number of omissions. I again wrote to the then Law Minister and asked him, what is the meaning that in considering the several Acts which have been passed from 1940 to 1946, there are a number of omissions."

MR. PRESIDENT :—" Does the hon. Member mean that Acts are omitted."

SRI B. BHIMA RAO :—" Yes, Sir. There are a number of Acts which have not been referred to in the first set of Bills."

MR. PRESIDENT :—" Evidently they do not want to re-enact them."

SRI B. BHIMA RAO :—" The result was that in another ten days, I got another book, Repealing Bill No. II. Mr. President, Sir, you will see what a taxing business it is for a conscientious legislator to go through all those Bills. It took three or four hours to see how many Acts have been passed and dealt with and how many have not been dealt with. Then, I again wrote to the Law Minister that some other Acts were missing. Now, Sir, I have got another Bill, Repealing Bill No. III for resolving some doubts. I think that Bill makes confusion worse confounded; instead of resolving any doubts, I think, our doubts are enhanced by that Bill. It would have been better if we are to take up a dozen or twenty Acts at every sitting, consider them separately and pass them, instead of passing them *en bloc*. I do not wish to say anything more. Sir, I find that there is one Act which is in Bill No. III and that is the Madras City Police and Towns Nuisances (Amendment) Act of 1941. It is Act XXIII of 1941 and it is rather repulsive to ideas of freedom which we have got at present and which ought not to be found on the Statute Book. There is a drastic provision in this Act XXIII of 1941 which gives power to the Commissioner of Police in the City of Madras to deal with a person who is not a resident of Madras but who comes from outside and to pass orders of detention and externment and so forth on him. Sir, it is a very very drastic legislation. Probably it was justified in the year 1941 in the midst of war when there were threats of Japanese invasion. But, to-day, I do not think that Act is a necessity. We have now passed the Madras Public Safety Act and some other kindred Acts. Therefore, I do not think the Act which I have referred to should be on the Statute Book even for one year. With these observations, I resume my seat."

SRI A. GOVINDACHARYULU :—" Mr. President, Sir, I wish to invite your kind attention to one particular Act which is introduced for being re-enacted in the present Bill. Sir, I find that a number of Acts are introduced in this Bill for re-enactment,

[Sri A. Govindacharyulu] [22nd April 1948]

but we do not know what are the Acts. We are not supplied with copies of those Acts but we are asked to deal with those Acts. We did not have occasion to go through those Acts because we were in jails at the time those Acts were passed. Apart from that, there is a very serious Act in this list."

THE HON. SRI KALA VENKATA RAO :—" If the hon. Member had called upon the Minister, he would have arranged to supply him with copies of the Acts."

SRI A. GOVINDACHARYULU :—" Sir, my purpose in speaking on this is to draw the attention of the Government to the 7,000 villages of this Province whose interests are affected in this Bill of Bills and to safeguard their interests. I am referring to the Estates Land Act (Amendment) Bill, 1941. It was not a Bill which was passed by the Legislature but it was an Ordinance passed by the Advisers' regime. We all condemned the autocratic regime of the Advisers' Government. I do not know why this Act should find a place in the present Bill. It was not included in the first publication but it is found in the second Repealing Bill. This measure was being contested from the year 1908 on the floor of the Legislature a number of times and many cases were brought before the Madras High Court who gave certain decisions. To circumvent all those decisions, the Advisers, all on a sudden, overnight, issued this Ordinance affecting 7,000 villages and having a population of three lakhs of people. As a matter of fact, our learned Revenue Minister has brought forward the Zamindari Abolition Bill which is being considered by the Select Committee now. When that Select Committee is still considering the Bill, why should that Act be included for re-enactment in the Repealing Bill? That was a lawless law which was made by the Advisers at the instance of the Communists when the Government was badly in need of the co-operation of the Communists. The Communists met at Bezwada and passed a resolution and waited in deputation on the Advisers and promised their co-operation. At their instance, that Act was passed which affects 7,000 villages in this Province."

MR. PRESIDENT :—" I think the hon. Member's voice is naturally loud enough and there is the mike as well, so he need not speak so loud."

SRI A. GOVINDACHARYULU :—" Yes, Sir. Then, Sir, in view of such a serious nature of the Act affecting 7,000 villages and three lakhs of people and which is being contested for the past forty years from time to time both on the floor of the Legislature and in the courts, I do not know how Government came forward to re-enact that Act. Of course, you may ask us to raise our hands. Certainly we are obliged to raise our hands as partymen. But there is the conscience. Therefore, I request the Government to take out at least this Act and bring it as a separate measure before the House, in view of its serious nature affecting one-third of the ryotwari population of this Province."

22nd April 1948]

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Mr. President, Sir, we are a minority here; yet we have to have our say. Sir, we, sitting on this side of the House, raise a very strong protest against the manner in which legislation is being rushed through by the Government."

SRI B. NARAYANASWAMI NAYUDU :—" Not rushed through; by-passed !" (Laughter.)

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Sir, as a matter of fact, when the Leader of the Opposition and other members were speaking on this Bill, I felt that there was a sort of feeling on the part of the members of the Ministerial Benches that they must have permanent laws to enable them permanently to carry on the Government. That is why probably the word 'permanent' is introduced there. But, as a matter of fact, this sort of feeling of permanency in their seats"

MR. PRESIDENT :—" I do not think the hon. Member need labour that point; the word 'permanent' is used not for the reason they believe that they will be in Government for all time by passing this Bill. Hon. Member may take the word as meaning 'permanent as long as it is there'."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" We certainly take proper precaution not to level any uncharitable criticism"

MR. PRESIDENT :—" If by passing this Bill, the Ministers are going to become permanent, then as one man, they will push through this Bill!"

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I am not saying that by passing this Bill, they will become permanent in their places. But, there seems to be a feeling on the part of the other side that they are permanent."

MR. PRESIDENT :—" I do not think so."

THE HON. SRI K. MADHAVA MENON :—" Except God, there is nothing permanent."

ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" I am glad to hear the Hon. Minister saying that except God, there is nothing permanent. (Interruption.) I shall leave it at that."

" Sir, the other point is whether a Bill re-enacting so many Bills can be introduced. On that point we look to you for protection, advice and guidance. If hon. Members on the other side are not amenable to reason, I would suggest they might bring forward one Bill to give fascist powers to the Government, declaring that whatever they do will be law. But if we want to act in a democratic manner, we should give our decisions on each Bill separately. What is done now is a breach of the constitution and an abuse of democracy. We appeal to the Government not to rush through this Bill. We want to enter our strong protest

12-15
p.m.

[Abdul Latif Farookhi Sahib Bahadur] [22nd April 1948]

against the way in which one or two Bills have been introduced to re-enact several Bills passed by the Advisers' Government, Sir, whether these Bills were good or not, a democratic Government ought not to give the impression to the public that they accept all the Acts passed by the Advisers' regime under section 93 to which all Congress members were opposed. We should not follow, or imitate or emulate the manner in which the Advisers carried on the Government. Whatever may be the justification or unjustification for having these Bills passed into law, at least for sentimental reasons, as we are an independent country, we should not follow the Acts passed by the autocratic Advisers.

"Sir, my hon. Friend, Mr. Narayanaswami Nayudu, was correct in saying that in this bunch of Bills there may be one or two with which we may agree and one or two with which we may not agree. If all these Bills are clubbed together it will be difficult for us to give effect to our views. Sir, the steam-roller majority has now become a famous expression. But, I must give a friendly warning to our friends. Their own partymen are criticising the attitude adopted by them. It is a pointer to them showing which way the wind blows and that all is not well with the Government. Therefore, Sir, in the interests of their own party and democracy and amicable understanding between the Opposition and the Government, it is necessary that the Government should not be carried on in this fascist manner. With this appeal, I wish to record my emphatic protest against the manner in which this thing is done."

* SYED TAJUDDIN SAHIB BAHADUR :—"Sir, it is nothing short of out-heroding Herod. With all their steam-roller majority and all the powers they have, I wonder why the Government should fight shy of the ordinary methods of doing these things. We found fault with the bureaucrats in the olden days. But even the proverbial bureaucrats never did such a thing except in an emergency. Under ordinary conditions, I do not see why a popular Government should bring forward this Bill of Bills as Mr. Narayanaswami Nayudu has beautifully put it, and rush through it? How can we agree to this Bill being rushed through this House? This is all that I have got to say, Sir."

THE HON. SRI K. MADHAVA MENON :—"Sir, we are continually reminded about the 'steam-roller majority'. That is a stale argument."

MR. PRESIDENT :—"The Hon. Minister need not worry about it."

THE HON. SRI K. MADHAVA MENON :—"But when it is hurled against us, let it not be thought that I have not got something to reply to it. After all it is only the majority that is going to rule and not the minority."

"Sir, the principles of this Bill were approved by this House when it was introduced here last December and referred to a Select Committee. The House agreed to a motion for setting up a Joint Select Committee. According to Parliamentary practice the House

22nd April 1948] [Sri K. Madhava Menon]

is supposed to have accepted the principles of the Bill. Then Dr. John was present in the House. Mr. Narayanaswami Nayudu's name was proposed to the Select Committee but he said it was not convenient to him."

SRI B. NARAYANASWAMI NAYUDU:—"We own the mistake that this point was not raised then."

MR. PRESIDENT:—"If you want, I shall give you an opportunity. This matter should be thoroughly discussed. I am not going to hurry the matter with my ruling."

THE HON. SRI K. MADHAVA MENON:—"I am not pleading any estoppel, Sir. I am only saying that people may become wiser after certain things happen. Dr. John has become wiser after the last meeting. The objection that this procedure cannot be adopted under the Rules and the Act is not correct, Sir. The Bill has been passed by the Assembly. The schedule contains a number of enactments. It is a common thing for many Bills to be passed with schedules containing 300 or 400 rules although the rules have as much effect as the sections.

"Sir, it is argued that there is no time. A copy of the Bill was handed over to every Member in December. The Select Committee went through the whole Bill and said that as the modifications suggested by them are minor ones, republication of the Bill is not necessary. That was why these two bulky volumes containing so many Acts were not reprinted and circulated. The original thing is there intact. The Committee thought that certain Bills required further consideration. Instead of giving them permanent life, they have been put on the statute book for one year.

"Mr. Farookhi Sahib asked what he could do if he agreed with one Bill and did not agree with another Bill. It is open to him, Sir, to say that item number so and so in the schedule be deleted or amended in such and such a way."

SRI B. NARAYANASWAMI NAYUDU:—"Will it be passed?"

THE HON. SRI K. MADHAVA MENON:—"It is not a question of being passed. It can be done. It does not mean that you are bound to vote for the entire thing if you do not agree with it. That is no argument, Sir.

"Sir, Dr. John, the good lawyer and advocate that he is, wants to make the world understand that nobody else perhaps knows anything of law. He challenged me to show any instance where such a thing has been done, any other legislature where such a thing has been done. Sir, exactly the same thing was done in the Central Provinces Legislature. The same difficulty arose with regard to the Acts passed in the Advisers' regime and the same procedure was adopted by mentioning in the schedule to one Act all the other Acts. In Act XLVIII of 1947, sixty Acts were mentioned—their names only—in the schedule, and they were re-enacted. The same thing happened in Act XXV of 1942 in the

[Sri K. Madhava Menon]

[22nd April 1948]

Central Legislature. There the enactments specified in the first schedule were repealed, those specified in the second schedule were amended and so on. There were as many as 100 Acts. Dr. John, who said that no legislature in the world has done that should know that, Sir. Similarly the principle is the same in regard to Act I of 1948 of the Central Legislature repealing certain enactments. Say about 100 of the Ordinances were issued. They were all repealed by being simply mentioned in a schedule. So also Act VI of 1937 of the Central Legislature similarly repealed and amended certain Acts by a schedule. I am not, of course, quoting any authority for what has been done by the Houses of the Legislature of other Provinces, because what is done elsewhere is no authority for us. When this point was raised, whether it is in order to bring in a Bill like this, the Speaker pointed out to the Leader of the other House that such a procedure was followed in the Central Legislature. Now that the question has been raised, it is for you to decide the point of order. As you were pleased to observe this is more or less fundamental and Mr. Narayanaswami Nayudu also agreed that it is only a formal objection and the principle of the Act mostly would not be objected to. That is why Dr. John took a very wise precaution when he said that he did not want to speak on the merits of the Bill but only on principle that the whole thing is wrong. I do not agree with him. Perhaps he thought that discretion was the better part of valour. Though he challenged me, he has nothing to say against the merits of the Bill. Fundamentally there is nothing wrong in it. Apart from the Government of India, we have followed the most convenient procedure. It is not as if we are withholding any information from this House. Same thing is done with regard to every Bill which is proposed to be enacted or repealed. Of course, Sir, we are not withholding any information from this House."

MR. PRESIDENT :—" I suppose the original Acts were given to every Member."

THE HON. SRI K. MADHAVA MENON.—" Yes, Sir. In December 1947 a copy of all the Acts was given to every Member and because there was no amendment, it was not reprinted as it meant unnecessary waste of paper. In fact, in the Annexure the Objects and Reasons in respect of every Bill are given. We have also given the reasons as to why we propose to amend, repeal or re-enact and in what manner they are to be done, are all given in the Bill. Nothing has been kept off from the Members of the Legislature nor do we want to evade. It is not a case of shirking. My hon. Friend has asked, why should you be afraid. There is no question of being afraid when every information that is at the disposal of the Government has been given to Members. It would be ridiculous to bring in legislation once every half year or at the end of the year in respect of all these Bills. During the Advisers' regime about 200 Acts were passed and instead of wasting the time of the House we are adopting this procedure. Dr. John was waxing eloquent about wasting the time of the House by bringing one Bill per day and giving information to Members. Sir.

22nd April 1948] [Sri K. Madhava Menon]

opportunity was given to Members to bring in any amendment they liked when the Bill was discussed in this House on the last occasion, when there was a resolution for appointment of certain representatives from this House to the Joint Select Committee. So it cannot be said that we wanted to evade the question. Sir, no legislature would be by-passed and that was the word used by my hon. Friend, Mr. Narayanaswami Nayudu. When your wife is not in good terms with you or you do not like her, any word you use will be resented by her and if you cannot drive her away, you merely abuse her or beat her and whether it has the desired effect or not is a different matter."

MR. PRESIDENT :—" The question is whether on principle we can take up a number of Bills by means of a consolidating Bill and say, pass all these Bills. Can you do it? "

THE HON. SRI K. MADHAVA MENON :—" There is nothing wrong in doing it and there is nothing in the rules to prevent it. Of course, it can be prevented when it is most unnatural and improper."

MR. PRESIDENT :—" If it is unnatural there, how is it natural here? "

THE HON. SRI K. MADHAVA MENON :—" There is nothing unnatural or illegal in respect of this Bill because every year in the course of normal duties, when there is necessity for legislation and we need not wait till the end of the year, such a thing is being usually done. In this case, these Bills were there, we had to examine about 300 of them one by one, as to whether they should be re-enacted, repealed or amended. In fact about 30 Acts we had to repeal by means of amending Bills and about 20 to 25 were allowed to lapse because we did not want them. In view of the fact that we had to examine about 200 Bills and it would take time we thought this would be a convenient procedure to adopt. Technically speaking there is nothing against it in our rules and in fact we can club 4 Bills together and it is enough to mention them in the schedule as we have now done. There is nothing in the rules as they stand at present to prevent doing that and such a contingency will not happen always."

MR. PRESIDENT :—" Are you correct there? Can you bring a consolidated Bill like this? "

THE HON. SRI K. MADHAVA MENON :—" I am not bringing a consolidated Bill, Sir, but only one Bill."

MR. PRESIDENT :—" In the schedule you give a number of Bills which you want to become Acts."

THE HON. SRI K. MADHAVA MENON :—" If I can give you an analogy, in regard to the District Municipalities Acts, a number of rules in the form of a schedule were placed before the House and passed. All those rules have the force of law as any other substantial Bills. There the rules were passed by means of

[Sri K. Madhava Menon]

[22nd April 1948]

a schedule and the rules were not brought forward through a Bill and they were approved by the Legislature. Yet they have got the same effect as a Bill that is passed."

MR. PRESIDENT :—" I suppose rules are made under the rule-making powers given under the Act."

THE HON. SRI K. MADHAVA MENON :—" No, Sir. That is a different matter altogether. There are rules attached to the Bill which have to be approved by the Legislature and when the schedule is approved by the Legislature, it has all the force of law. I know that rules made under the rule-making powers need not come before the Legislature because Government are given powers to make them."

MR. PRESIDENT :—" Let me understand you correctly. You are referring to a case of a Bill to which a schedule has been attached containing certain rules and the House passes it. How is it similar to this? "

THE HON. SRI K. MADHAVA MENON :—" The rules passed like that have the force of law. It is all a question of wording. Of course, it is open to the House to reject the schedule but when once the schedule is passed it has all the force of law. Whether it is illegal and is waste of time, Dr. John and myself can fight out in a court of law. It is not at all illegal. It is open to the Government or any Member to bring in a Bill attaching anything in a schedule and if you do not rule the schedule to be out of order, anything passed by the House including the schedule, becomes law."

MR. PRESIDENT :—" How do you number those Bills? Do you call them Bills or Schedules to a Bill? "

THE HON. SRI K. MADHAVA MENON :—" They are Schedules to a Bill. The Bill we pass is No. III of 1948."

MR. PRESIDENT :—" It is all right. By virtue of Bill No. 3 of 1948 every Act is being validated and you refer to the Act as Act so and so."

THE HON. SRI K. MADHAVA MENON :—" I will refer to the Act as the Act validated by Act number so and so."

MR. PRESIDENT :—" The Government of India Act, 1935. is validated by Act number so and so. We need not worry much about this. I think we must all agree on the question of principle. Whether it is legal or illegal is the question. It is not a question of the capacity or the intelligence of the members to deal with about 100 Bills, in a group. It is always better to go on certain principles."

THE HON. SRI K. MADHAVA MENON :—" We have never done that before except in the present case. In the Central Government there were Ordinances issued and they had to be made permanent by the Legislature."

22nd April 1948]

MR. PRESIDENT :—“ How do you make out your case that the principle of the Bill has already been considered by this House? ”

THE HON. SRI K. MADHAVA MENON :—“ I never said that it is a question of estoppel. I put these facts before you for your consideration.”

MR. PRESIDENT :—“ Is it your case that all points were considered and the Joint Select Committee was appointed? ”

THE HON. SRI K. MADHAVA MENON :—“ A point of order can be raised at any time unless you overrule it. I say the point of order itself is wrong. There is nothing in the rules of procedure of the Legislature where it is said that I should bring in a Bill in such and such a form. So, when I bring in a Bill in a form and it has been admitted, it does not become out of order. I only said that there is no estoppel. You have not ruled it out of order when it was introduced.”

MR. PRESIDENT :—“ Suppose the Select Committee appointed on the Bill submitted its report and it is before the House, can anybody say, the House cannot take it into consideration? ”

THE HON. SRI K. MADHAVA MENON :—“ I think the rule says, that once the House appoints the Select Committee, the principle of the Bill is accepted. So the point of order is out of order.”

MR. PRESIDENT :—“ I thought you gave up your case.”

THE HON. SRI K. MADHAVA MENON :—“ You have the right at any time to say that it is out of order. I did not give up my case. Under rule 75 of the Council Rules, the Member in charge of a Bill may make one of the three motions in regard to the Bill and under sub-clause (2) of the same rule on such motion, the principle of the Bill and its general provisions may be discussed.”

DR. V. K. JOHN :—“ On a point of information, Sir. Was not this Bill introduced in the Assembly and a resolution moved here to nominate certain members to the Joint Select Committee? In fact, this Bill was not introduced in this House but only the Select Committee members were appointed. So we had no chance of discussing the Bill.”

MR. PRESIDENT :—“ Does the appointment of the Joint Select Committee make any difference under this rule? ”

DR. V. K. JOHN :—“ We concurred in the appointment of a Joint Select Committee and there was no chance of discussing it.”

THE HON. SRI K. MADHAVA MENON :—“ That was the time for the first stage of discussion. When it comes out of the Select Committee the only right of a member is what is given under sub-rule of rule 88, and that is ‘ If the member in charge

[Sri K. Madhava Menon] [22nd April 1948]

12-45
p.m.

moves that the Bill be taken into consideration any member may move as an amendment that the Bill be recommitted.' That is the only thing that a member can do at that stage. The Central Provinces Bill was exactly like this. So, Sir, the only right of bringing amendments by Members after a Bill has emerged from the Select Committee, is as given in rules 88 (2), 89, 90 and 91. I cannot understand the curious argument of Dr. John when he said that this House simply concurred in the resolution. The Bill came here with a request that this Council may also join in the Select Committee because it was only in that way we could have a Joint Select Committee. Suppose the Bill is introduced in this House and we ask the other House by means of a resolution to elect members to the Joint Select Committee, the position will be the same. The same procedure was followed in respect of the Aliyasantana Bill. Therefore, the point of order raised by Mr. Narayanaswami Nayudu, is, if I may say so, hopelessly out of order. (Sri B. Narayanaswami Nayudu: Why don't you say 'ridiculous'?) I leave it to you to use a stronger adjective. So, Sir, word for word, it is identical with what is contained in the Central Provinces Bill."

DR. V. K. JOHN :—" Sir, the Hon. Minister referred to the Government of India Act—for the repealing and amending Act of 1942 and cited it as the authority. Now this repealing and amending Act of 1942 never contemplates a Schedule where a Bill is to be re-enacted."

MR. PRESIDENT :—" I thought your position was this. I understood you this way. You enact a Bill for the first time either to amend or repeal or re-enact a Bill, and you mean that all these things must come independently before this House. Am I correct? "

DR. V. K. JOHN :—" What I mentioned was that a Bill to pass another Bill cannot be introduced unless certain Bills were passed with amendments to previous Acts. There is no sense in saying that an enactment which has to lapse is to be amended. When they say they want an old Act to be passed *in toto* with some amendments, they are only saying these enactments we want to pass. They make certain modifications in the old enactment."

MR. PRESIDENT :—" When you want any Bill for any purpose it must come independently before the House."

DR. V. K. JOHN :—" Suppose you want to repeal one hundred enactments, one enactment is enough because you are repealing them."

MR. PRESIDENT :—" If it is right for one enactment to repeal a number of enactments, how is it wrong to have one Act for validating a number of Acts."

DR. V. K. JOHN :—" You cannot do that. What the Central Legislature did was this. By an enactment they repealed a

22nd April 1948]

[Dr. V. K. John]

large number of Acts. It is quite in order because in repealing an Act you have only to say that such and such an Act is repealed."

MR. PRESIDENT:—"Yes; but you cannot club all these things together; you must have one Act for each."

DR. V. K. JOHN:—"It is all done for the sake of convenience and there is nothing illegal in passing an Act saying that ten Acts are repealed."

MR. PRESIDENT:—"Acts are passed whether by this Legislature or by the Governor under a law properly constituted. So they are certainly laws. But the question is, can you bring in one comprehensive Bill saying that all these things are amended."

DR. V. K. JOHN:—"You cannot do that. A proclamation continues to be in force for two years unless sooner repealed or enacted by an Act by a proper Legislature. Section 93 of the Government of India Act says:

'If the Governor, by a Proclamation under this section, assumes to himself any powers of the Provincial Legislature to make laws, any law made by him in the exercise of that power shall, subject to the terms thereof, continue to have effect until two years have elapsed from the date on which the Proclamation ceases to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature, and any reference in this Act to Provincial Acts, Provincial laws, or Acts or laws of a Provincial Legislature shall be construed as including a reference to such a law.'

So, after the expiry of two years it will have no effect at all and it will automatically stand repealed. To say that they are not repealed is to say that they do not cease to have effect. If they are to be re-enacted, in re-enacting you have to follow the procedure of enacting a Bill. You have first to introduce a Bill. The question is, can you introduce one Bill and in the Schedule refer to various other Bills for enactment."

MR. PRESIDENT:—"What is the difference."

DR. V. K. JOHN:—"In the case of repeal, you are repealing a whole Act or a portion of an Act and you say in that Act itself that you are repealing a portion of that Act. In the Government of India Act itself, it is stated like that. The enactment is self-contained because it gives you what it purports to do. It is not passing into law a Bill. It is only repealing an existing Act or a portion of an Act."

MR. PRESIDENT:—"The Bill seeks to amend certain things. On the analogy of what you were now reading with regard to the procedure in the Government of India, that enactment so and so shall be repealed, to that extent, does it not amount to an amendment. When we say that section 7 of Act so and so shall be repealed, what does it mean? Does it not mean an amendment of the Act?"

DR. V. K. JOHN:—"Sir, it is a different thing modifying a portion and repealing the existing Act."

[22nd April 1948]

MR. PRESIDENT :—“ You are objecting only to the enactment of Bills and you are not objecting to the repealing of them.”

DR. V. K. JOHN :—“ Sir, why should there be a specific enactment when an Act repeals itself. It is just like killing a dead body.”

MR. PRESIDENT :—“ Is it your principle that when you consider any enactment whatever be its nature whether for amendment or for repeal or re-enactment the new Bill must come before the House.”

DR. V. K. JOHN :—“ Sir, you can amend an existing Act and you can repeal in a bunch but you cannot enact in a bunch. That is all what I say. They say, we are not taking certain Bills *in toto*, and when I compare them I find that there is some difference between the old Acts and those here. It is not correct to say that they are amending the old Acts. In some cases, they have made modifications. When they take old Acts and say that they are repealing them, I have no objection. But my only objection is that there is no necessity for it. But when you are introducing some Acts with some modifications over the old Acts, we are not concerned with the old Acts but only with the present Bills which are to be enacted into law, for they are not Acts but in substance and law they are Bills to be passed by this House and no question of amendment arises. That is what my hon. Friend, Mr. Narayanaswami Nayudu pointed out.”

MR. PRESIDENT :—“ Do you say that we cannot legislate in a body or we cannot repeal in a body or amend in a body. What is your principle.”

DR. V. K. JOHN :—“ Sir, my contention is, you cannot enact in a bunch while you can repeal in a bunch and there is nothing wrong in it. What is really wrong is to introduce enacting measures in a bunch and my hon. Friend said that he would not do in this manner again. It might be hereafter but the question of principle is involved here which must be settled.”

MR. PRESIDENT :—“ But I would like you to consider other points also. Do you mean to suggest that having appointed a Joint Select Committee whose report is before the House and having emerged from the Lower House to this House, it is still open to the House to raise such a point now.”

DR. V. K. JOHN :—“ I am glad, Mr. President, you have raised that question. The Joint Select Committee was appointed by a motion and not on the introduction of a Bill.”

MR. PRESIDENT :—“ The report is before you. Would you please refer to the rules and tell me what is the procedure to be adopted now. The procedure is laid down for a Select Committee

22nd April 1948]

[Mr. President]

to be appointed and its report being considered. Is there any other provision under which the Joint Select Committee's Report can be considered differently?"

DR. V. K. JOHN :—" Sir, Rule 75 deals with the method of appointing a Select Committee. We have not appointed a Select Committee at all and we had no occasion or opportunity to discuss the principles of the Bill."

MR. PRESIDENT :—" I know that. Is there any other procedure which deals with the report of the Joint Select Committee or is the same procedure to be adopted? "

THE HON. SRI K. MADHAVA MENON :—" Rule 111 (7), Sir."

DR. V. K. JOHN :—" Sir, what happens is that the Joint Select Committee reports and then there is discussion."

MR. PRESIDENT :—" And then what happens. We cannot appoint a Select Committee."

DR. V. K. JOHN :—" Now, we are at Rule 105. Sir, in a Joint Select Committee on a Bill originating in the Lower House, there is only one opportunity for this House to discuss the general principles of the Bill. That is after the Joint Select Committee Report is considered by the Lower House and the Lower House passes it and sends it here, then only we have an opportunity to discuss the principles of the Bill. At the time this House consented to nominate its quota of members to the Joint Select Committee, it had no opportunity to discuss the principle of this Bill. We passed the motion; the Joint Select Committee was constituted and it went into business. The only opportunity we have is when the stage under Rule 105 is reached, and before that stage, there was no opportunity for this House to discuss the principles of the Bill. Otherwise, it would mean that we have two opportunities to discuss the principles of the Bill. The Bill did not originate in the Council and it is not correct for my hon. Friend to say that we had an opportunity to discuss the general provision of the Bill. As a matter of fact, we have not had any opportunity till now. Except in the case of Bills coming under Rule 75 (2), we have no opportunity at all to discuss the principles of the Bill and the only opportunity for this Council to discuss the proposals so far as the Joint Select Committee's report is concerned, is the present stage, i.e., the stage when Rule 105 is reached. There is no estoppel and there is no estoppel even in the other House; it is for the Select Committee to give direction that every Bill in the schedule should be brought forward as a separate Bill and all the Bills must be introduced individually and not by way of schedules. There is no question of estoppel and the Select Committee itself could have done it and the other House could have done it; if the Select Committee did not do it, or the other House did not do it, there is no question of estoppel in this House.

[Dr. V. K. John] [22nd April 1948]

“ So far as the Imperial Acts, the amending Act to the Civil Procedure Code, the Provident Fund Act, the Indian Navy Act and the Insurance Act are concerned minor amendments have been made; one comma here and one word there : there is no question of principle there. These are Acts already existing and the amendments are made but my contention here is that there is an existing Act for them to amend; you cannot amend an Act which is lapsing.”

MR. PRESIDENT :—“ It has not yet lapsed.”

DR. V. K. JOHN :—“ Any amendment will only go up to the 30th April. If they amend the Act, and the Act lapses that is a different question. What is being done is not amending an existing Act but introducing new Bill for purposes of enactment.”

MR. PRESIDENT :—“ Is it your objection that they must not amend as well as re-enact? ”

DR. V. K. JOHN :—“ My point is they are not amending any Act; they are putting the present Bill before the House telling the House that in presenting the Bill, they have not copied the previous enactments but that they have made certain modifications; let me not use the word ‘ amendment ’ and in law what you are doing is irregular.”

MR. PRESIDENT :—“ Is it not an amendment? ”

DR. V. K. JOHN :—“ It is an amendment of an Act which lapses. If the Central Provinces are doing it is it to be a precedent for us and are we to follow it. We must have our own independent opinion. The principle involved is that a Bill must be introduced and passed in accordance with the rules of business of the House and it cannot merely form part of a schedule of another Bill. The question is whether you can introduce a Bill to be passed into law as a schedule to another Bill. If that is allowed, I say it is illegal; not only irregular but illegal and against the provisions of the rules.”

SRI B. NARAYANASWAMI NAYUDU :—“ Mr. President, let me deal with the question raised as to why this had not been raised in the Select Committee. I know, Sir, that this point ought to have been raised; but that it has not been raised once does not absolve me from doing it now and examining whether the enactment is in order and legally sustainable. That matter can be raised and should be gone into at any stage and there is no question of estoppel with regard to it. It does not prevent my saying to you now that I had been stupid and wrong and I want it to be done in a correct manner and I should not be prevented from becoming wise later on.”

MR. PRESIDENT :—“ Under what provision do you suggest it? ”

SRI B. NARAYANASWAMI NAYUDU :—“ The question is that it can be raised if it is valid in any stage.”

22nd April 1948]

MR. PRESIDENT :—" But you must also admit that when it has to be done at a particular stage, you cannot leave it and raise the objection later when it ought to have been raised earlier; could you raise it at any stage; could it be raised in the third reading stage? Can you raise a point of order at the time when I am putting it to the vote of the House? "

SRI B. NARAYANASWAMI NAYUDU :—" My submission is that, Sir, it can be raised."

MR. PRESIDENT :—" But under what rule? "

SRI B. NARAYANASWAMI NAYUDU :—" If it is really stupid that it has escaped notice up to a certain stage, it can be done at any stage. In respect of repealing enactments mentioned in the first schedule which are spent and otherwise become unnecessary or cease to be in force otherwise than by an express and specific measure, there is no question of enactment at all. A certain number of Acts are clubbed together for repeal and there is no question of discussion of principles or clause by clause. Citations have been made and I do admit that the Central Provinces Act is on a line with this model."

MR. PRESIDENT :—" There is another West Bengal Act also."

SRI B. NARAYANASWAMI NAYUDU :—" With regard to the Adaptation Acts it is not the question of any principle that is involved there; it is out of date and it has to be adapted to the new machinery and it is not at all an enactment and so it does not help as a precedent."

MR. PRESIDENT :—" What difference does it make if these are individually considered or in a bunch."

SRI B. NARAYANASWAMI NAYUDU :—" You might have seen, Mr. President, the one-party voting going on in dictatorship countries; there will only be 100 votes for a proposition and none against. So also here so many Bills have been brought in and while you may agree to the bulk of them how can you discuss the principles and suggest improvements or modifications in respect of the others? Also in a particular Bill, you may be in favour of all the clauses but one and how can you express what you have to do about that particular clause when that clause is not before the House and for the matter of that no clause is before the House? The whole lot of Bills is before the House; the principle of each Bill could not be discussed and the right to move amendments is not before us. This is a substantive right."

MR. PRESIDENT :—" On the basis of admitted facts, we are not having any new Bill in the sense that you have to deal with them clause by clause. We are considering Acts which are existing Acts and validating them; do not you think that there is some

[Mr. President]

[22nd April 1948]

difference between new Bills and validating Bills. When you want to re-validate, should the Bill be brought in again and taken up clause by clause."

SRI B. NARAYANASWAMI NAYUDU :—" That is what I say should not be done. Having a hundred Bills in the schedule to a Bill which is to be passed is wrong and no Government must do it."

MR. PRESIDENT :—" That means that the Government must wait till the enactment lapses."

SRI B. NARAYANASWAMI NAYUDU :—" No, Sir. Only sooner repeal the Governor's acts."

MR. PRESIDENT :—" Is it open to Government to keep quiet till the law lapses by normal efflux of time and bring in another Bill in the same terms and have it passed into law. If they do not want to do that, what is the procedure Government should adopt? The Act is there now and they want to take the time by the forelock and say let it not lapse and let it be continued for some time more; what is the procedure to be adopted? There must be some kind of difference between a Bill which is taken up for the first time in the House and certain validating measures. Supposing there is an Act passed by the House, namely, the Tenants' Protection Act and its life is two years; is it not open to the House to adopt a simple motion saying that it shall be extended for five years? Apart from technicalities, I would like to know the purpose in re-enacting each Act separately."

1-30
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SRI B. NARAYANASWAMI NAYUDU :—" The object of voting is frustrated. I may be able to carry the House with me on certain Bills. That is not possible if hundred and odd Acts are clubbed together in the Bill."

SRI A. GOVINDACHARYULU :—" I would like to submit this for your consideration. All these Acts are Ordinances . . ."

MR. PRESIDENT :—" They are not Ordinances; they are all Acts. The only difference between these Acts and the other Acts is that they were not considered by the Legislature."

SRI A. GOVINDACHARYULU :—" These are Acts promulgated by virtue of the Ordinance-making power of the Governor. Section 93 (4) of the Government of India Act, 1935, provides that these Acts should be re-enacted by the legislature before the expiry of two years from the date on which the proclamation ceased to have effect and that otherwise they will lapse. The object of the provision is to give an opportunity to the popular representatives to discuss them clause by clause."

MR. PRESIDENT :—" I will give a ruling on the three Bills to-morrow. Meantime we will take up the other Bills. We can begin with the Lapsed Acts (Removal of Doubts) Bill after lunch.

" I now adjourn the House to meet again at 2-30 p.m."

22nd April 1948]

(After lunch--2-30 p.m.)

(2) THE MADRAS LAPSED ACTS (REMOVAL OF DOUBTS) BILL, 1948
(L.A. BILL NO. 15 OF 1948).

THE HON. SRI K. MADHAVA MENON :—" Mr. President, Sir, I move—

*' that the Madras Lapsed Acts (Removal of Doubts) Bill, 1948 (L.A. Bill No. 15 of 1948) * as passed by the Legislative Assembly be taken into consideration at once.'*

" Sir, one hundred and seventy Acts were enacted in all by His Excellency the Governor of Madras during the section 93 situation which lasted from the 30th October 1939 to the 30th April 1946. Out of these, 93 Acts are to be re-enacted or repealed by the Madras Re-enacting and Repealing Bill No. I, which has now been postponed to to-morrow, 42 by the Madras Re-enacting Bill No. II and 4 by the Madras Re-enacting Bill No. III. Eight other Acts have been repealed by various Acts passed recently. The Madras Restriction of Habitual Offenders Bill, 1948, proposes to repeal one of the Acts; and the Madras Tobacco Taxation of Sales and Licensing (Re-enacting) Bill, 1948, proposes to re-enact one and repeal another of the Acts. Thus 150 Acts have been or are about to be dealt with; and the 20 Acts which remain are to be allowed to lapse on the 30th April 1948. In the case of 10 of these Acts, it is considered necessary to provide, that upon the expiry of the Acts, section 8 of the Madras General Clauses Act, 1891, shall apply, so that the expiry of the Acts may not affect anything done, etc., under the Acts, when they were in force, and that the Acts amended by the expiring Acts shall have operation, as if the latter Acts had never been re-enacted.

" Sir, under sections 8 and 8-A, the effect of repealing of an Act has been mentioned. Section 8 states, that where any Act to which this provision applies, repeals any other enactment, then the repeal shall not—

(a) affect anything done or any offence committed, or any fine or penalty incurred or any proceedings begun before the commencement of the repealing Act; or

(b) revive anything not in force or existing at the time at which the repeal takes effect; or

(c) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or

(d) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(e) affect any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

[Sri K. Madhava Menon]

[22nd April 1948]

(f) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such fine, penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.'

"It was brought to our notice that unless the Acts specified in the schedule are specifically repealed, section 8 of the General Clauses Act may not apply and so certain proceedings already taken or pending now cannot be proceeded with unless they are specifically brought under section 8 of the General Clauses Act. Otherwise there is no repeal and doubts will be raised whether it will apply to lapsed Acts. This Bill is therefore introduced as a matter of abundant caution so that doubts may not be raised about action pending or taken under the Acts whenever they lapse.

"Sir, clause 2 (a) makes all past actions valid and future actions are covered by clause 2 (b). The Bill is merely intended to remove certain doubts, because it may be argued that section 8-A of the General Clauses Act would apply if such amendments are not brought forward. To avoid such doubts, clause (b) has been introduced. It is very doubtful whether any objections will arise at all, and it is only as a matter of abundant caution that this Bill has been prepared and I move that it be taken into consideration at once.

"Sir, my hon. Friend, Mr. Bhima Rao while speaking about the other Bill that was considered just before this Bill, raised certain doubts. It is to avoid such doubts that I have brought this Bill before the House, which I am moving for its consideration."

SRI R. SURYANARAYANA RAO :—"May I suggest, Sir, that this Bill may also be taken up to-morrow after the three Repealing and Re-enacting Bills are taken up for consideration, after you have given your ruling? Sir, if any member of this House takes it into his head that an Act that is put under the schedule for repeal should not be there, but should be considered and discussed individually, then all sorts of complications will arise."

THE HON. SRI K. MADHAVA MENON :—"Sir, the various Acts referred to in the schedule to this Bill are Acts which expire or lapse after 30th April 1948, and this Bill only applies to such lapsed Bills and it has nothing to do with repeal at all."

MR. PRESIDENT :—"The question is, that the Bill for the removal of doubts regarding the operation of certain enactments, (L.A. Bill No. 15 of 1948) as passed by the Legislative Assembly be taken into consideration at once."

* SRI B. BHIMA RAO :—"Mr. President, Sir, as I stated before, my doubts are not at all resolved, but on the other hand

22nd April 1948] [Sri B. Bhima Rao]

they have been enhanced by this Bill for the removal of doubts. For instance, let us take the first of the Acts referred to in the schedule to this Bill, that is Act XIV of 1941. This amending Act, which has been passed for amending the Madras Local Boards Act, 1920, gives power to the Provincial Government to supersede for a period not exceeding three years any district board which had been dissolved and is waiting reconstitution under section 45 of the Act. Now, since this Act lapses on the 29th April 1948,—and since there are several district boards which are in a state of suspended animation,—what is their legal position and status on the 30th April? If it is under the original section 45 of the Local Boards Act that the Government supersedes any district board, that is to say when they are not competent to perform such functions, their action will become illegal. But under this Amended Act, the Government is given power to supersede these Boards for other reasons as well

MR. PRESIDENT :—“ Then we go back to the old Act.”

SRI B. BHIMA RAO :—“ Then Sir, am I to take it that those district boards with the previous members that were in existence on 31st March 1947 should come back? Taking the case of the Bellary District Board for instance which is in a state of suspension waiting to be reconstituted, am I to take it that those members who were before should come back? I should like to be clear of that position, Sir.”

MR. PRESIDENT :—“ The present members will continue and the district board will be governed by the old Act.”

SRI B. BHIMA RAO :—“ That position is not quite clear, Sir. Section 45 follows the previous section”

MR. PRESIDENT :—“ That is the only construction that can be put. Let us not go into that matter at present. Let us see if there is any objection to this legislation.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, a subsequent Act has been passed by the legislature giving all the powers of the Council to the Special Officer and therefore it does not affect the position at all.”

SRI B. BHIMA RAO :—“ I do not know why these Acts also are not allowed to lapse along with the other 20 Acts referred to in the Statement of Objects and Reasons.”

MR. PRESIDENT :—“ They are allowed to lapse. It is only to remove the doubt whether they lapse automatically or are to be repealed, that this Bill is enacted, which says that they are definitely repealed. That is how I see it.

“ The question is—
‘ that the Madras Lapsed Acts (Removal of Doubts) Bill, 1948 (L.A. Bill No. 15 of 1948) be taken into consideration at once.’ ”

[22nd April 1948]

The motion was put and carried.

Clause 1 was put and carried.

Clause 2 was put and carried.

The Schedule was put and carried.

The Preamble was put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
' that the Bill be passed into law '."

The motion was put and carried and the Bill was passed into law.

(3) THE MADRAS TOBACCO TAXATION OF SALES AND LICENSING
(RE-ENACTING, BILL, 1948 (L.A. BILL NO. 12 OF 1948).

THE HON. SRI B. GOPALA REDDI :—" Sir, I move—

' that the Madras Tobacco Taxation of Sales and Licensing
(Re-enacting) Bill, 1948 (L.A. Bill No. 12 of 1948) ^a as
passed by the Legislative Assembly be taken into consi-
deration at once.'

2-45
p.m.

" Sir, the hon. Members of the House might know that we had a Tobacco Taxation Bill enacted in 1939 under which we were taxing all the sales of tobacco. But in 1944 we entered into a sort of agreement with the Government of India that in lieu of Rs. 22 lakhs to be paid to us we would impose no taxation on tobacco goods. We repealed our original Act of 1939 because we entered into that sort of agreement. Now the present Bill seeks to repeal that repealing Bill of 1944 and to revive the old Act of 1939. Since we cannot immediately impose those duties on tobacco under the Act of 1939 we shall keep it in suspense for the time being so that whenever we want we may be enabled to re-impose those duties, because that agreement with the Government of India is still lasting. Now we have entered into negotiations with them and we are trying to persuade them to see that we get a fair deal. In their Central Excise duties which they are collecting they get nearly Rs. 300 lakhs. We want that at least 50 per cent of it should be given to our Province. For the time being we are getting only Rs. 22 lakhs. So, Sir, we do not know how these negotiations are going to develop and we do not know what our attitude will be hereafter. But this Bill will enable us to re-impose those tobacco duties if and when it is desired by us. For the time being the original Act of 1939 will be revived and will be kept in suspense under this Act. I therefore want that this Bill be taken into consideration at once."

* SRI B. BHIMA RAO :—" Sir, I want to say a few words with regard to the principles of this enactment. As you know we passed an Act in the year 1939 levying a tax on tobacco. And some time later the Central Legislature also passed a similar Act. The poor dealers and merchants who were trading in tobacco were subjected to enormous taxation by the Provincial Government as also the Central Government. They were being subjected to so

22nd April 1948] [Sri B. Bhima Rao]

many difficulties that they made innumerable representations to this Government and to the Central Government. In some cases which I came to know in the course of my profession tobacco which was worth only Rs. 500 was subjected to a taxation of Rs. 1,500 and even more. When those representations were made to both the Governments, the Central Government intervened and said to the Provincial Government: 'You may just repeal your Act. We will give you some compensation.' At that time the Legislature was not functioning and they came to some arrangement. Now the present Government want to get a higher share. After all it is our own Government that is functioning in Delhi. It is not a bureaucratic Government and I think our leaders have got that capacity to persuade the Central Government to come to a reasonable settlement and increase it. But, Sir, this is not the way of reviving repealed and lapsed legislations and holding a Democle's sword over the Central Government.

"I should also like to submit this, Sir. I wish to refer to another provision which I believe will soon become law. That is Article 231 of the Draft Constitution of India framed by the Constituent Assembly. Sub-clause (1) says as follows: If any provision of law made by the Legislature of a State is repugnant to any provision of law made by Parliament which Parliament is competent to enact, or to any provision of any existing law regarding a matter with respect to which Parliament has power to make laws, then, subject to the provisions of clause 2 of this Article the law made by Parliament, whether passed before or after the law made by the Legislature of such State or, as the case may be, the existing law shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void. That being the case . . ."

THE HON. SRI B. GOPALA REDDI:—"That is not the case, Sir. It is only a draft constitution. We are also tabling amendments to that. I do not think the hon. Member is entitled to refer to the draft constitution."

MR. PRESIDENT:—"Of course the hon. Member is entitled to refer to it. But we do not know when the constitution will come into force. I do not think the Government are going to wait till then."

* SRI B. BHIMA RAO:—"In the Constituent Assembly if they can prevail upon them to come to a different conclusion it is all right. Even according to the existing law, section 107 of the Government of India Act, 1935, reads:

'If any provision of a Provincial law is repugnant to any provision of a Dominion law which the Dominion Legislature is competent to enact or to any provision of an existing law with respect to one of the matters enumerated in the concurrent Legislative list, then, subject to the provisions of this section, the Dominion law whether passed before or after the Provincial

[Sri B. Bhima Rao]

[22nd April 1948]

law, or, as the case may be, the existing law shall prevail and the Provincial law shall, to the extent of the repugnancy, be void."

MR. PRESIDENT:—"We have got power even to make certain Acts which may not be validated later. What I want to impress upon you is this. In this matter of legislation it does not say that you cannot legislate. You can legislate. All you should see is whether it is within the competence of the Legislature. It is a different matter altogether whether assent is given or not."

SRI B. BHIMA RAO:—"My submission is we have to take note of the existing law."

MR. PRESIDENT:—"I suppose the Government will do that."

SRI B. BHIMA RAO:—"The Legislature has to take note of this fact. We should not pass such legislation if it is repugnant. I shall place one instance before you. I do not want to take much of the time of the House."

MR. PRESIDENT:—"There is no time-limit; the hon. Member can speak."

SRI B. BHIMA RAO:—"You may remember, Sir, in September 1946 in this House the Hon. Mr. Giri brought a Bill to amend the Trade Disputes Act. I raised a similar objection. You ruled that it was in order. After we all debated upon the measure it went up for receiving the assent of the Governor-General. There the Governor-General withheld his assent and that Bill was never passed into law. I only want that such a contingency should not recur."

MR. PRESIDENT:—"It was on the ground that they were enacting a similar legislation. They were re-enacting it."

SRI B. BHIMA RAO:—"They were re-enacting certain provisions. In that interval the Madras Legislature wanted to enact some other law and it was passed by both the Houses and when it went for the assent of the Governor-General it was withheld. I only want that such a contingency should not happen with regard to this legislation. Also in the interests of the merchants dealing in tobacco who were harassed like anything between these two sets of taxation, as a matter of principle, I think this is not the opportune time for the Government to bring forward such a measure as this."

SRI R. SURYANARAYANA RAO:—"I do not think, Sir, the fears expressed by Mr. Bhima Rao are well founded. In fact this Province passed first the Tobacco Taxation Act. Then the Central Legislature passed their Act levying an excise duty. Because they wanted to levy the excise duty we put our Act in abeyance."

22nd April 1948]

THE HON. SRI B. GOPALA REDDI:—"After negotiating with them we got Rs. 22 lakhs."

SRI R. SURYANARAYANA RAO:—"We are perfectly entitled to renew the Act of 1939. Mr. Bhima Rao quoted the instance of the Trade Disputes Act, Sir. There was first a Trade Disputes Act enacted by the Central Legislature and we wanted to interfere with it and they said: We are passing another Act. Do not interfere. Here we have a prior claim for imposing taxation on tobacco."

DR. V. K. JOHN:—"I take this opportunity, Sir, to bring to the notice of the Central Government the very widespread feeling in this Province that our sources of revenue are not elastic and that it is necessary that this Province, if it is to function properly, must have elastic sources of revenue or a due share in the elastic sources of revenue collected by the Central Government. This Bill is therefore welcome because the Central Government has from time to time failed to assure the public in this Province that we shall have elastic sources of revenue. At least this Act will open their eyes and will make them feel that it is not only the feeling among members of the Government and their supporters but also it is the feeling of everybody in the Province."

SRI B. NARAYANASWAMI NAYUDU:—"This Act also is like the previous one which was before the House, Sir. I am trying to understand, Sir, and I request the Hon. Minister to explain, whether it is the Act in the Annexure that is sought to be retained."

THE HON. SRI B. GOPALA REDDI:—"That will be kept under suspense."

SRI B. NARAYANASWAMI NAYUDU:—"What is it that they want? It is the Bill in the Annexure. Section 2 of the Bill says: The Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, is hereby re-enacted subject to the modification specified in sub-section (2). Therefore it is the Bill in the Annexure that is before the House in a round-about way. If I am wrong in saying so I wish to be corrected. Section 1 of the Bill 3 p.m. says: This Act may be called the Madras Tobacco Taxation of Sales and Licensing (Re-enacting) Act, 1948. Instead of putting the Act of 1940 before this House and ask this House to pass it, clause 2 of the Bill says that the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, is hereby re-enacted. The Act of 1940 is given in the Annexure. I want to know why this round-about way of passing this Act. I am appealing again to the Ministers to let us have what may be called the Central sections and principles underlying those Acts. (Interruption by the Hon. Sri B. Gopala Reddi.) That is why I state that it is an attempt to pass the Act in the Annexure by enacting certain clauses in the main Act. All I submit is that the Act of licensing tobacco sales was passed in 1939, and an Act amending that was

[Sri B. Narayanaswami Nayudu]

[22nd April 1948]

passed in 1940. Now in 1948 we asked to re-enact the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940 with some modifications. This is not brought forward in the form of a Bill. I ask the reason why. Why not Government give reasons for re-enacting it now? Are the Government going to put clause 1 of the Act of 1940 to vote now? You are only going to put all the clauses of the Act of 1940 to vote *en bloc*. That is, Sir, evading the powers of the Legislature. By saying that the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940 is hereby re-enacted, you are compelling me to vote for all the clauses *en bloc* or not to vote at all. There may be some sections in the Annexure which I may not like. But you compel me to vote *en bloc*. This is not the correct procedure. When Government want to re-enact an Act, they should bring forward a Bill before this House, and they should not say that a certain Act shall be re-enacted. It may look that I am supercritical, but really I think it is a question of principle. What is it that is before the House now? Is it clause 4 of the Act of 1940 or the whole Act itself? I cannot understand how this was suggested to Government. The proper method will be to bring the Annexure before the House and not this Act."

THE HON. SRI B. GOPALA REDDI:—"Sir, this is one of the sins of the Advisers' regime. The net effect of the Bill is to revive the Act and keep it in suspense. There will be nothing in operation. It is only to enable the Government to enforce it as and when they desire to do so. It may be after 2 years or 5 years or it may be that there is no need at all to enforce it. I say this with reference to the objection of the hon. Mr. Narayanaswami Nayudu. (Interruption by Mr. Narayanaswami Nayudu) The hon. Member Mr. Bhima Rao has raised the bogey of section 107 of the Government of India Act saying that this Bill is repugnant to the Dominion law. Under the Concurrent List, Sir, we are entitled to tax the sale of goods and advertisements. We come under that provision. The Government of India comes under the provisions of levying excise duties. There is no conflict with the Central Government's excise duties. The Government of India did not think that our law, which was in force in 1939, was repugnant. On the other hand they came to us and persuaded the Advisers to enter into a sort of agreement and accept 22 lakhs of rupees and be satisfied with it. That was in 1942. I am not satisfied with these 22 lakhs when they are collecting 300 lakhs from this Province. I wanted fifty per cent of it. I am reinforced in my claim by the very favourable recommendations of the Sarker Committee, which was appointed by the Constituent Assembly of India to go into the question of allocation of finances between the Central Government and the Provincial Governments. They made a specific recommendation that with regard to Central excise duties on tobacco, the Provinces must be given 50 per cent. We are strengthened in our case by that report. All that I want is I must

22nd April 1948]

[Sri B. Gopala Reddi]

be able to negotiate with the Government of India to either increase these 22 lakhs to fifty per cent of their collections or the Government of India must allow me to maintain the *status quo*. I am keeping the whole Act in suspense. It is only to enable me to negotiate with the Government of India in a better manner than this Bill is brought forward. Even though the Central Government is run by our own leaders like Pandit Jawaharlal Nehru, I want my Province to get its legitimate dues. It does not satisfy me because my leaders are at the Centre that my Province should be poor for all time to come. This Bill will enable the Provincial Government to negotiate successfully with the Central Government. If the negotiations should for some reason or other fail, I will be entitled to levy my own duties. Let the Central excise duties also be there. Let the tobacco traders pay both the taxes. It is not uncommon that both taxes are paid. In the United States of America, both the Centre and the States levy their taxes, and they are paid by the traders."

MR. PRESIDENT :—" Does this Bill require the assent of the Governor-General? "

THE HON. SRI B. GOPALA REDDI :—" His Excellency the Governor's permission is necessary, and I think it has already been sent to you. There is nothing unusual about this. The original Act of 1939 was passed by the Legislature. The amending Act was passed in 1940, during the Advisers' regime. This amending Act was repealed in 1944. Now in 1948 we are repealing that repealing Act of 1944 and are reviving the 1939 Act as amended by the Act of 1940. We are re-enacting the amendments of the Advisers' Act of 1940 in the 1939 Act. The negotiations are still going on. We are keeping this Act in suspense. There is nothing repugnant to the Dominion law mentioned in section 107 of the Government of India Act." (Interruption by Mr. Narayanaswami Nayudu.)

MR. PRESIDENT :—" The hon. Member Mr. Narayanaswami Nayudu may give notice of amendments. This deals with only one Bill."

MR. PRESIDENT :—" The question is—

' that the Madras Tobacco Taxation of Sales and Licensing (Re-enacting) Bill, 1948 (L.A. Bill No. 12 of 1948) as passed by the Legislative Assembly be taken into consideration at once '."

The motion was put and carried.

Clauses 2 to 5, 1 and the preamble were separately put and carried.

[22nd April 1948]

THE HON. SRI B. GOPALA REDDI :—“ Sir, I move—

“ that the Bill be passed into law ”.”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, if people do realize what they are doing, then they would realize what they should not do. What is it that the House passed just now? It is that the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act of 1940 shall be re-enacted. What is that Act? It says—

“ Any wholesale dealer who sells or buys tobacco leaf cured or uncured or any preparation or mixture of tobacco (not being manufactured tobacco) for trade therein :—

(a) if his turnover is estimated at less than one thousand rupees per annum,

the fee shall be five rupees, ten rupees, twenty-five rupees and so on. While the Central Government is levying excise duties, if and when this Government also want to impose these taxes, they can do so. What is the purpose of re-enacting it? You are going to charge the brokers. No doubt we shall not put this Act into force. I ask whether we are passing an Act or we are passing a re-enactment. The Act is not put to the vote. Have the Government any idea of the taxation involved? Elementary principles of law should guide this House in passing Acts. The taxation proposals are not put to the vote of the House. But only the re-enactment is put to vote. I really regret how this could be conceived of. Instead of directly putting clause by clause, the re-enacting Bill is put to vote. I say it is not at all correct and it is not at all decorum for this House to re-enact an Act without specifying the Clauses of the Bill.”

SRI M. NARAYANA MENON :—“ Sir, I submit that in view of Clause 5 of the Bill, it is not necessary to put the Annexure to the Vote of the House or to put every section in the Annexure to the vote. Because, Clause 5 of the Bill says—

“ The Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act, 1944, is hereby repealed, . . .

3-15 P.M. It is repealed, what is the legal effect? If it repealed, naturally and automatically, the Madras Tobacco Taxation of Sales and Licensing Act of 1939 as amended by the Madras Act of 1940 will be revived. Therefore, when the Act of 1944 is repealed, the Act of 1939 as amended by the Act of 1940 is revived.”

MR. PRESIDENT :—“ Is it revived automatically? ”

SRI M. NARAYANA MENON :—“ It is automatically revived. In fact a re-enacting Act is not necessary; if the Act of 1944 is repealed, the other is revived. Therefore, I say even a re-enactment is unnecessary. It is only by way of caution Government are re-enacting it and there is no harm in re-enacting it. Under section 3 of this Act, it will be seen that the Annexure is not part of the Bill.”

22nd April 1948]

MR. PRESIDENT :—“ Why should not the Government put it in the form of a Bill? ”

SRI M. NARAYANA MENON :—“ That is another method. But there is no harm in the present method. Therefore when the Act of 1944 is repealed, the Act of 1939 as amended by the Act of 1940 is revived. As regards the other objection raised by Sri B. Blima Rao and another hon. Member that under section 107 we ought not to have passed Acts like this, I may say this. At the time when the Act of 1939 was passed or when the Act of 1940 was passed, they obtained the necessary authority from the Governor-General and now, why should you require another permission from the Governor-General? It is absolutely not necessary. We are only reviving an Act which is dead because of another Act and we have got the authority to repeal an Act and therefore, there is no harm, if we do not get the permission of the Governor-General again in this matter. It cannot be said that if we do not get the permission, we are acting against the Central Government. There is no risk at all on the part of the Government in doing this. On the other hand, if the public find that they will be affected by the Act of 1939 now revived or re-enacted it is their duty to agitate and therefore there is absolutely no harm or risk in passing this Bill.”

MR. PRESIDENT :—“ The question is—

‘ that a Bill to re-enact the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, and to repeal and re-enact with certain modifications, the Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act, 1944, be passed into law.’ ”

The motion was put and carried and the Bill was passed into law.

(4) THE MADRAS RESTRICTION OF HABITUAL OFFENDERS
BILL, 1948 (L.A. BILL No. 13 OF 1948).

THE HON. SRI K. MADHAVA MENON :—“ Mr. President, Sir, I move—

‘ that the Madras Restriction of Habitual Offenders Bill, 1948 (L.A. Bill No. 13 of 1948)^a as passed by the Legislative Assembly be taken into consideration.’

I am sure that this Bill will not have the objections raised by Dr. John and Sri Narayanaswami Nayudu, that it is brought in as an Annexure or a Schedule. In this connexion, I would like to say only a few things.

“ The Criminal Tribes Act, 1924, was intended to control members of criminal tribes both individually and collectively. This Act was amended in 1943 and again in 1945. The object of the amendments was to stiffen the original Act in certain respects.

[Sri K. Madhava Menon] [22nd April 1948]

The Criminal Tribes (Madras Repeal) Act, 1947 intended to repeal the Criminal Tribes Act in its application to this Province, was passed in May 1947. But the Act has not yet been brought into force pending promulgation of the new Madras Restriction of Habitual Offenders Act.

The Madras Restriction of Habitual Offenders Act, 1943, provides for the application of the provisions of the Criminal Tribes Act, 1924 to individual habitual offenders. It is proposed to revise it with the object of having a single Act to control the activities of individual habitual offenders, whether they are members of a notified tribe, or not, and to enforce the new Act and the Criminal Tribes (Madras Repeal) Act, 1947 simultaneously.

The Criminal Tribes Act generally provides for the declaration of tribes, gangs or classes of persons of well-known criminal propensities as notified tribes. Members of notified tribes are required to register their names with the police. Some of them are required to notify their residences and some to report themselves at fixed intervals to the police. The movements of sections of tribes are restricted to particular areas. Dangerous elements among these tribes are confined to settlements.

Towards the end of 1946 the Government directed that the provisions of the Criminal Tribes Act, 1924, and the Madras Restriction of Habitual Offenders Act, 1943, should not be applied afresh to any person. They subsequently directed in March 1947 that the application of the provisions of the Criminal Tribes Act should be confined to those in Criminal Tribes Settlements only. The result is that the provisions of the Act are not now enforced against the members of notified tribes outside the settlements.

The present Bill is essentially a reproduction of the Madras Restriction of Habitual Offenders Act, 1943, eliminating all provisions which may be considered as objectionable and includes in it the restrictive provisions of the repealed Act only with the object of making it applicable to individual offenders. The general outline of the proposed legislation is that no tribe, gang, or class of persons will be brought *as such* within the scope of the new Act. Only individuals, whether members of notified tribes or not, will be brought within its fold. It is proposed to provide for the following:—

- (i) notification of individuals as habitual offenders;
- (ii) offenders to notify residence;
- (iii) restricting movements to specified areas; and
- (iv) confining offenders in settlements.

The Bill before the House gives up the provision existing in the Criminal Tribes Act of reporting to the Police.

Immediately on repeal of the Criminal Tribes Act, a large number of habitual offenders who are at present subject to restrictions (though such restrictions are held in abeyance) will cease to be

22nd April 1948] [Sri K. Madhava Menon]

liable to any restriction. To deal with the interim situation, it is proposed to bring within the restrictions of the new Act, every one who was registered under the former Act at the commencement of the new Act, and who within the previous five years had been ordered to give security under section 110, Criminal Procedure Code or convicted of an offence under section 24 of the Criminal Tribes Act or of a non-bailable offence under any other law.

“The provisions in the Bill are liberal when compared with the provisions of the existing Madras Restriction of Habitual Offenders Act. I shall briefly indicate the changes.

“The definition of the term ‘Habitual Offender’ in the existing Habitual Offenders Act brings within its scope those who had committed at least three non-bailable offences or who had been ordered to give security under section 110, Criminal Procedure Code, or who by repute as established at a magisterial inquiry are addicted to the commission of serious offences against person or property. The definition of an habitual offender in clause 2 of the Bill is in much more restricted terms. The reference to non-bailable offence has been confined to serious offences set out in the schedule. It is only in respect of the following offences that this Bill will apply. You will find there are three classes of offences—

(1) Offences under Chapter XII of the Indian Penal Code, such as counterfeiting coin, making or selling instrument for counterfeiting coin, and other offences connected with counterfeiting coins.

(2) Offences under Chapter XVI of the Indian Penal Code, such as culpable homicide, murder, causing grievous hurt, kidnapping, etc.

(3) Offences under Chapter XVII of the Indian Penal Code, such as theft, extortion, robbery, dacoity, rioting, trespass and offences connected with theft, extortion, dacoity, etc.

“Secondly, instead of merely establishing that a person has committed an offence, it has been made clear that a specific sentence of imprisonment should have been passed in respect of the offence.

“Thirdly, there should be a subsequent conviction in respect of an offence committed after the previous conviction or convictions, so that only a person who has been convicted on three different occasions after each conviction can be thought of being brought under the provisions of the present Bill.

“The existing provision for a magisterial enquiry has been deleted *in toto*. The demand for security for good behaviour under section 110, Criminal Procedure Code, will not make a person a habitual offender, as in the original Act, but will be regarded as equivalent to the passing of a single sentence of imprisonment. Under the former Act, the demand for security for good behaviour under section 110, Criminal Procedure Code, was thought sufficient to bring a person within the mischief of the Madras Restriction of

[Sri K. Madhava Menon] [22nd April 1948]

Habitual Offenders Act. While the existing Act does not provide for Government action under the Act being questioned in a Court of law, the Bill provides for Government action under clause 3 being questioned in a court of law.

“ Sir, let me now explain the necessity for passing this new Bill into law before the end of April 1948. The Criminal Tribes Amendment Acts of 1943 and 1945 and the Madras Restriction of Habitual Offenders Act, 1943 were passed during the Advisers' regime and these Acts will lapse on the 30th April 1948. The Government are advised that some administrative difficulties may arise if the new legislation is not passed into law by the end of this month. Clause 16 of the Bill provides that every notification issued in respect of any person under section 3 of the Restriction of Habitual Offenders Act, 1943 and in force at the commencement of this Act, shall be deemed to have been issued under section 3 (1) of this Act. As the Habitual Offenders Act of 1943 lapses this month, it is doubtful whether a man registered under this Act can be deemed after 30th April 1948 to be registered habitual offender. If the new Act is not passed into law before the end of April 1948, the validity of continuing any action taken under the Acts passed in 1943 and 1945 will be left in doubt. It is very essential, therefore, to pass the present Bill into an Act before the end of this month. When the new Act comes into force, the Criminal Tribes (Madras Repeal) Act, 1947, will also be brought into force, so that the Criminal Tribes Act, 1924 as amended in 1943 and 1945 and the Madras Restriction of Habitual Offenders Act, 1943 will be repealed altogether.

“ Sir, the legal position is also rather complicated. The Criminal Tribes Act, 1924 (Central Act VI of 1924) was amended by two Madras Acts passed during the section 93 situation, viz., Madras Act XXIX of 1943 and Madras Act XXV of 1945. The former Act is pretty comprehensive and covers a wide ground. Another Act, called the Madras Restriction of Habitual Offenders Act, was also passed during the section 93 situation, as Madras Act XXX of 1943. After the proclamation under section 93 was revoked and the Provincial Ministry was restored, Madras Act X of 1947 was passed. That Act repeals with effect from such date as the Provincial Government may by notification appoint, the Criminal Tribes Act, as amended by Madras Acts XXIX of 1943 and XXV of 1945, except for the purpose of section 3 of the Madras Restriction of Habitual Offenders Act, 1943. No date has been appointed so far under Madras Act X of 1947.

“ The position on the 30th April 1948 on which date two years will have elapsed from the revocation of the proclamation under section 93, will therefore be as follows :—

(1) Madras Acts XXIX of 1943 and XXV of 1945 will lapse.

(2) The Criminal Tribes Act, 1924, as it stood before Madras Act XXIX of 1943, will be restored to its full operation.

22nd April 1948] [Sri K. Madhava Menon]

(3) The Madras Restriction of Habitual Offenders Act, 1943 (Madras Act XXX of 1943) will lapse and cease to be in force.

“ The validity of continuing any action taken under any amendment made by Madras Act XXIX of 1943 will therefore be left in doubt. Similarly the Madras Restriction of Habitual Offenders Act, 1943, having lapsed, it may be difficult to hold that any action taken under that Act can be continued after the 30th April 1948. Having regard to these difficulties, it is very desirable to have this Bill placed on the Statute Book before the 30th April 1948. After all, this Bill is essentially similar to the Re-enacting Bills, Nos. 1 and II, inasmuch as it seeks to deal with a situation created by the impending lapse of three Acts passed during the section 93 situation.

“ I shall just indicate how the Bill now placed before you differs from the Madras Restriction of Habitual Offenders Act, 1943. In clause 1 of this Bill, the Government fix a date for the coming into force of this Act and clause 2 deals with certain definitions. The definition of the term ‘ Habitual offender ’ has been modified. The proposed definition is in much more restricted terms. In the old Act, a Habitual Offender meant, a person who has committed at least three non-bailable offences. It also included offences committed at one and the same occurrence. He could be made an habitual offender on one of the offences and security for good behaviour demanded under section 201. And he was not given any right to appeal to a court also. In this new Bill, the definition of a habitual offender has been made like this. ‘ Habitual Offender ’ means a person who, before or after the commencement of this Act, has been sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, on not less than three occasions, for one or another of the offences under the Indian Penal Code set forth in the schedule, etc., etc.” I have read the schedule. Sir. The schedule gives the offences of counterfeiting coins, etc., and offences against persons such as murder and other things, theft and dacoity, etc. The three classes of offences have been mentioned in the schedule. Every person who has been convicted definitely three times and sentenced by a court three times, the sentences not being reversed in appeal, can be classified as a habitual offender. Unlike the old section, he must have been sentenced in respect of an offence after the passing of a previous sentence on a previous occasion. Further the provision with regard to the passing of an order requiring a person to give security for good behaviour with reference to section 110, Criminal Procedure Code, which would make a person liable to be classified as a habitual offender outright formerly, has been modified and rectified.

“ Another change is about the jurisdiction of courts mentioned in clause 15. Formerly section 5, stated that no court should question the validity of the Act, etc. It is too wide a provision and the Government have said that an order under clause 3 shall be questionable in a court and the aggrieved party can take up before

[Sri K. Madhava Menon] [22nd April 1948]

any court any order or notification passed by Government in the matter. That is the amendment that we have made in the present Bill. You will find that in regard to settlements the main provision says that the Government may authorize any officer at any time and they can direct any notified offenders who may be in a settlement to be discharged, or transferred to any other settlement.

"Sir, these main provisions of the Bill are now before hon. Members and as I have already told you, the section which restricts the movement of an habitual offender is certainly necessary in order to prevent crimes and it is a preventive clause. Sir, these are days when there is a wave of crime going on throughout the country and therefore, Government must have the necessary powers to prevent persons who are likely to commit such offences under some imagination or other. Moreover, such persons can be notified only after asking them to show cause why they should not be notified. In the Assembly, it was stated that section 16 of the Act is a little bit drastic because it says that those who have been registered under the provisions of the Criminal Tribes Act shall be deemed to be notified under section 3 under certain conditions. I must make it clear that it is on three definite conditions they can be deemed to be notified. They must have been convicted within five years of the passing of the Act. They must have been convicted for non-bailable offences under section 24 of the Criminal Tribes Act and security must have been demanded from them under Section 110 of the Criminal Procedure Code.

3-30
p.m.

"Sir, it is only these three particular classes of habitual offenders who are affected. After the passing of this Act and before the rules are framed, it is necessary that persons who are definitely known to be habitual offenders should be prevented from committing crimes. Power is taken for a temporary period within which the rules under the Act will be framed.

"Even otherwise, Sir, the members residing more or less in the area which was called the Criminal Tribes Area—the hon. Member Mr. Rajaram Navudu and others—represented to me that it may lead to abuse. The notification is to be made only by the District Magistrate or the Government. It is only those people who have committed offences mentioned in the Schedule to the Act who will be notified as habitual offenders. There is a proposal for giving the necessary instructions in order to see that as little restriction as possible is placed on these people. Powers are taken only to see that crime is prevented."

DR. V. K. JOHN :—"On a point of information, Sir, may I know how many habitual offenders there are and how many reformatories and settlements there are in the Province?"

THE HON. SRI K. MADHAVA MENON :—"Sir, I cannot say off-hand how many habitual offenders there are. Under the Criminal Tribes Act which is repealed, there are about three to four thousand persons registered. They are living under certain restrictions. There are four settlements: the Aziznagar settlement, the

22nd April 1948] [Sri K. Madhava Menon]

Stuartnagar settlement, the Bitragunta settlement and the Sitanagaram settlement. The number of members there is not very much."

* SRI B. BHIMA RAO :—" Sir, the Hon. Minister referred to one thing which pains some of the Members here. That is with reference to section 16 of the Act. Only the other day we had the pleasure of repealing the Criminal Tribes Act. Then I appealed to the Hon. Minister for Law to see that those who were classed under Criminal Tribes were reformed or re-employed so that they might not take to criminal activities again and be notified according to the provisions of the Act. But unfortunately nothing has been done in that direction and the provisions of the Criminal Tribes Act have been re-incorporated in this Bill. Every member of the Criminal Tribes who had the misfortune of having convicted within five years prior to the commencement of the Act will be a habitual offender. There is only a change of name: from being a member of a criminal tribe he becomes a habitual offender *ipso facto*. At least in the case of the ordinary habitual offender there is the chance of his appearing before the District Magistrate and explaining to him why he should not be notified as a habitual offender. In this case there is no safeguard at all. It is sad to think that at this time of day, the members of the Criminal Tribes should only have the nominal pleasure of the repeal of the Criminal Tribes Act and be included in the list of habitual offenders."

MR. PRESIDENT :—" I think the Hon. Minister referred to three offences. Please read section 16 again."

SRI B. BHIMA RAO :—" I do not want to take more time of the House. Suppose a boy of 12 to 15 years, a juvenile has committed a crime within the last five years, he will certainly come under section 16. *Ipsa facto* he becomes a habitual offender. The hardships these people have to undergo are very great. With regard to those who have been notified, they can question the order in a court of law, but with regard to these unfortunate members of the Criminal Tribes, they cannot question the order in a court of law. After all, Sir, the Assembly also is meeting in a short time again. These provisions may be amended in such a way as not to cause hardship to the unfortunate members of the Criminal Tribes and the matter brought again before the Assembly."

DR. V. K. JOHN :—" Mr. President, I must congratulate the Government on introducing this Bill not as part of the schedule to another Bill. I think the Hon. Minister now will realize how it is now possible to get assistance from the Members as he has got now."

" Sir, I regret very much that there has been need to introduce this Bill after two years of popular Government. I must also regret the Hon. Minister could not give us figures of habitual offenders or persons placed in that category for the last two years. We want to know whether the Government have tackled the

[Dr. V. K. John]

[22nd April 1948]

problem of habitual offenders well and whether there has been an increase or decrease in their number during the last two years. We have no figures of the number of habitual offenders in the reformatory schools and what these schools have done for them. The Government have simply introduced this Bill and the Hon. Minister has not thought it worthwhile to give the necessary figures for the information of the House and the public. Now that the Government have been in power for the past two years, I think there should not have been any habitual offender at all in this Province. On the other hand the Government finds there is need for this legislation.

“ Sir, some of the provisions of the Bill are very harsh. For instance, clause 5 provides that :

‘ Ever notified offender shall intimate such an authority and in such manner as may be prescribed, his place of residence, every change or intended change thereof, and every absence or intended absence therefrom.’

If a habitual offender intended in his own mind to absent himself from a particular place or to change his place of residence to another, his mere intention has to be reported. It is very harsh on the habitual offender who, I consider is an uneducated person and does not know the details of the law which relates to him. Why should you make his not reporting his intention an offence? After all he may cancel his intention as many of us intend to tour certain places and later on give up our intention. The introduction of the word ‘ intended ’ will work a hardship on these illiterate persons.

“ Sir, another provision to which I take objection is clause 15 which says :

‘ No court shall question the validity of any notification (other than one under section 3), or order, issued under this Act.

Sir, we have listened to speeches made by hon. Members introducing Bills after Bills containing provisions taking away the jurisdiction of the courts. It would appear that our National Government, our popular Government, gets a headache whenever they think of courts of law. The reason is they know they might be doing something wrong and they do not want the court to say that something wrong is done. They ask us, Members of the Legislature, to be party to Acts which take away the jurisdiction of the courts which we expect to decide things justly, and in accordance with law. (The Hon. Dr. T. S. S. Rajan : Question). It is even questioned whether the Courts of Law will decide justly, equitably and the executive wants to appropriate all the power.”

MR. PRESIDENT :—“ Rather it looks that the Government is so sure of the justice of what they do that they do not want interference.”

DR. V. K. JOHN :—“ They seem to be afraid that if somebody else looks into it, they will find it wrong. Otherwise if a person is quite sure of his stand, his first reaction would be, ‘ Let my order be discussed and considered in a court of law and a ruling given

22nd April 1948]

[Dr. V. K. John]

on it.' If a person is quite sure of the justice and the legality of what he does, he will not be afraid of courts of law. The hon. the Leader of the House thinks that the courts of law will never do justice. (The Hon. Dr. T. S. S. Rajan: Question again.) Then abolish them altogether. Pass an Act abolishing the courts altogether, and asking the executive to decide between litigant and litigant. They will always be correct and according to my learned friend, the Government can do no wrong. When we are being asked to be parties to a legislation ousting the jurisdiction of the courts, we think we are being asked to do something very unjust. The Government of this country should work in three departments—the executive, the legislature and the judiciary. Now the executive has been making attempts for a long time to take away the jurisdiction of the court altogether or to restrict its jurisdiction. I say, it is very wrong on the part of the executive to introduce Bills and ask us to be parties to them. Of course, they have a majority and that majority will stand in their stead. I find that both in the lower House as well as in this House, measures have been pushed through with speed. Nevertheless, I appeal to my friends on this side that they should not be a party to a legislation which takes away the jurisdiction of courts. It is said that no court shall question the validity of an order issued under this Act. I ask why should they not do it. (The Hon. Sri K. Madhava Menon: Is that so, is there no exception there?) Of course, there is an exception in regard to clause 3. But orders can be passed not only under section 3 but under many other sections also. So, I say the jurisdiction of the courts should not be excluded and we, members of the Legislature, should be jealous of the jurisdiction of the courts, and I think, Members of the Treasury Bench do no credit either to themselves or to the public which they represent or to the House, in introducing this Bill and trying to exclude the jurisdiction of the courts."

3-45
p.m.

SRI N. RANGA REDDI:—" Mr. President, Sir . . . "

MR. PRESIDENT:—" I hope you will not take long."

SRI N. RANGA REDDI:—" About 15 minutes, Sir."

MR. PRESIDENT:—" Is it necessary? "

SRI N. RANGA REDDI:—" Absolutely necessary, Sir. We have had legislation of this sort providing for abnormal situations that may arise in this Presidency. But unfortunately this is a piece of legislation which is intended to cover normal times and therefore it behoves us to scan every provision in this Bill. I was expecting, Sir, that this Madras Restriction of Habitual Offenders Act, may not find a place on the Statute Book at all. On the last occasion when this Bill was being discussed I congratulated the Government that the Criminal Tribes Act was not made applicable to this Presidency. Little did I realize then, nor did I anticipate that that Act will be introduced in the form in which this Bill is being introduced to-day. I must submit that under section 16 of this

[Sri N. Ranga Reddi]

[22nd April 1948]

Bill, every person who stood registered under the Criminal Tribes Act, 1924, at the commencement of this Act and who, within a period of five years immediately preceding such commencement, had been either ordered to give security for good behaviour with reference to section 11 will be deemed to be a habitual offender. The fact that he has been a member of the Criminal Tribes Act will be taken into consideration and he will be treated as a habitual offender. I may submit that there are at least some strong reasons for restricting the liberty of an individual when he is proved to have committed certain offences and he is considered to be a danger to the society. But in the case of a person who has been registered as a member under the Criminal Tribes Act, no such test has been prescribed. On the other hand, because he belongs to a particular gang or a particular tribe, he has to be registered as a member of the criminal tribes. I may submit that it is not within the province of anyone to choose one's parents. It is rather unfortunate that simply because he is born to a particular criminal, he has to be registered as a member of the criminal tribes. I think in such a case, it is not worth living in society. Another thing, Sir, is, that he is not registered as a member of the criminal tribes for anything done by him or for any infraction of the law that he is held responsible. On the other hand as usual, the sins of parents are visited upon the children. Simply because he is the son of so and so he is registered as a member of criminal tribes. Therefore, my respectful submission to the Government is, that the other provision of the law enacted in this Bill, that he was a member of the criminal tribe previously need not at all be taken into consideration. It is opposed to all canons of justice. There is no justification for it at all and he is not responsible for any acts done by his parents. I can understand, Sir, a man's liberty being curtailed for an act done by him. In this case, a man's liberty is sought to be curtailed for something done by his father or great grandfather.

"Next thing, I beg to submit, Sir, is that we have been quite familiar with the maxim that a man is punished only once for doing something and not twice. That is, if a man is punished once for anything, he should not be punished again for the same act except for a different offence. Here the case is where a man has committed an offence and is convicted and has even served a term of imprisonment he is still further punished. I invite the attention of the House to the definition of 'habitual offender'."

MR. PRESIDENT :—"Is there any provision under which simply because a man is a member of the criminal tribes, he is to be notified as a habitual offender?"

THE HON. SRI K. MADHAVA MENON :—"It is only under three conditions and after all this provision is only for a temporary period. Under section 16 . . ."

SRI N. RANGA REDDI :—"If a member of a criminal tribe has committed a non-bailable offence . . ."

22nd April 1948]

MR. PRESIDENT :—“ I thought you were saying that on the mere fact that he belongs to a criminal tribe, he will be notified.”

SRI N. RANGA REDDI :—“ I am only submitting, Sir, the mere fact that he is a member of the criminal tribe should not be taken into consideration at all.”

MR. PRESIDENT :—“ Perhaps as a safeguard to others this provision has been made.”

SRI N. RANGA REDDI :—“ It is not a safeguard. On the other hand, you can rope in all such people.”

MR. PRESIDENT :—“ Supposing the man is not a member of the criminal tribe and has not committed three offences, he need not be brought under this.”

SRI N. RANGA REDDI :—“ It is enough if he is a member of the criminal tribes he is convicted once, whereas in the case of other people they should have committed three definite offences. I shall deal with the definition of ‘habitual offender’. There also the intention of the Government seems to be to prevent these roving gangs from committing thefts and settling in particular places. But, the definition of ‘habitual offender’ is such that it will rope in other people who are peacefully living in villages. For instances, there are factions in villages and certain people are convicted for non-bailable offences. Very often they are convicted for technical offences and non-bailable offences also. The police, instead of discharging their duties properly, can easily bring in certain people under this section and restrain them and so on. So, Sir, this provision will be abused by the police. I know as a matter of fact, even under the present Restriction of Habitual Offenders Act, the police not being able to tackle factions in villages, want to bring in leaders of factions under this provision and curtail their liberty. One thing, Sir, if factions exist in villages it is only due to the incapacity of the police, because they are not able to maintain law and order properly in the villages. Therefore, it is the duty of the Government to see that order is maintained in villages. I find at present there is no sufficient security in villages. So, let them take upon themselves the responsibility and see that law and order are maintained by the establishment of police stations, so that security is assured to the villagers. My submission, therefore, is, if the Government were to plead that they have not got sufficient forces at their disposal, let them at least establish more police stations and infuse more confidence in the villagers. On the other hand, what the Government are at present doing is, they put up punitive police and collect some money for it and start some police stations in those villages. My submission to the House is, if these provisions are to be enacted as a permanent enactment, they should be confined to particular people who are classified just like criminal tribes and not agriculturists who are eking out their livelihood by peaceful means. As I said, if factions exist in villages it is not because of their irresponsibility but because the Government fail

[Sri N. Ranga Reddi]

[22nd April 1948]

to maintain their prime duty of establishing and maintaining security in villages. Instead of trying to take action after the offence is committed, let them devote greater attention even before the offence is committed. Let them give education, let them start more schools, let the people be provided with employment and let the economic condition of the villagers be improved. If all this is done there need not be any necessity for an Act like this and it will become only a dead letter. Therefore, what I beg to submit is simultaneously with the passing of this Act, the Government should tackle the question of security in villages by providing employment, by providing schools and by starting more police stations. Therefore, Sir, though I am not able to subscribe to every provision in the Bill, I am, of course, willing to give my general support to it, because we are passing through troublous times, and I do not know what problems we have to face in the future. I, therefore, support the Bill sponsored by the Government."

* SRI M. NARAYANA MENON :—" Sir, it is always pleasing to be merciful or to speak in terms of mercy and give mercy. But, when certain questions arise it is difficult to be lenient or merciful. When we take up section 16, the remarks made by my hon. Friend, Dr. V. K. John certainly appeal to me. If every member of a criminal tribe is to be notified it is hard because it is not his mistake that he is born of bad parents. There is a register of entry in respect of every such person under the Criminal Tribes Act. That is only a matter of census. That is, if a boy is born in a criminal tribe and grows to a certain age, he is registered as a member of the criminal tribe, though he is not convicted of any offence under section 16, unless he shows the inherited tendency to commit an offence so that his heredity has asserted itself and he is notified. Of course, there is no harm in that. If a man lives peacefully as a member of a criminal tribe he is not affected by section 16. My hon. Friend, of course, refers to the fact that an attempt should be made by the Government to educate them. Have they not done it under this Act, let us see. Sections 8 to 10 clearly show that Government want to establish industrial, agricultural or reformatory settlements and that they are also prepared to order any notified offender to be placed in such settlements, that is to say, for education. Section 10 is very clear on the point. Even if he is not a notified offender of the criminal tribe he may voluntarily reside there for agricultural, industrial or reformatory purposes; all these are seen in sections 8 to 10. The only thing that Government should do is to establish industrial and agricultural settlements. It is said that 'Government may establish industrial, etc., settlements'. Here the word 'may' may probably be not quite sufficient. It should be 'must' because it is necessary that Government should do these things and it is for the people to ask them to do such and such a thing.

"I would like to make a reply to the complaint made by the other side. It is said that Government are afraid of courts, or

22nd April 1948] [Sri M. Narayana Menon]

rather they do not want the help of courts, though this legislation is not guilty of that error, because if you read sections 15 and 4 together, the position will be clear. Section 15 says, 'No court shall question the validity of any notification (other than one under section 3), or order, issued under this Act. But, section 3 says that 'before any notification is issued in respect of any person under sub-section (1), clause (b) a reasonable opportunity shall be given to him to show cause against such issue or modification'. Now when he is notified, he is given an opportunity to show why he should not be notified. So, it is a reasonable opportunity given to him. The hearing is not done by the court, but only by an officer of the Government. Here section 4 comes to the rescue. It says 'the Government may, by notification, delegate their powers under section 3 to a District Magistrate, in respect of persons ordinarily residing in his district, subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by them'. So that, Sir, all these matters will be considered by Government, though they may not by themselves do that. The Government or the Minister concerned may not do that, but certainly they will delegate their powers to the District Magistrates who will certainly consider all the points raised. After all where is the objection that it should be considered only by a Civil Court? Court means a Civil Court. Why should it be considered by a civil court at all because it is a matter relating to criminal matters and all these matters may not be dragged to a civil court. It cannot also be said that it is necessary that a notification issued by Government shall be questioned in a civil court. And moreover the people may not go to a civil court. They would rather go to a Minister or Government because that is always more practicable. At the same time, a notified man must be given an opportunity and that is given under section 4 and the District Magistrate will consider all these aspects. These objections are not after all serious and we need not harp on them."

THE HON. SRI K. MADHAVA MENON :—"Sir, Dr. John was complimenting me for the assistance given to me by friends but I am often inclined to express 'save me from my friends'. Mr. Bhima Rao really did not give me assistance. He raised a ghost if I may call it. Mr. Bhima Rao has sympathy for the criminal tribes people and the habitual offender and it is no doubt a human feeling. He should congratulate himself for his much wanted sympathy, but the case he wanted to make out was really not a good case at all. As I submitted at the beginning, the whole position taken up by Mr. Bhima Rao was under section 16 of the Act. I have been for a considerable length of time a prisoner in many jails and I know the conditions of these people whom we generally call 'black caps', particularly the habituals in the Salem and Vizagapatam jails, where it is common knowledge that most of these black caps, tell us beforehand 'I am to be released to-morrow but keep my bed ready because in another 10 days I am coming back again'. So, Sir, the District Officials know that there

[Sri K. Madhava Menon] [22nd April 1948]

are particular persons who have consistently committed three offences consecutively and are likely to commit another offence. Is it not better to save them beforehand than watch and wait till they commit an offence and then punish them? Do you want the danger to be done or avoid it if you possibly can? The effect of clause 16 in the Criminal Tribes Act is automatically repealed. It is wrong to think that every person, as Mr. Ranga Reddi said, born hereafter will continue to be a member of the criminal tribes because he is the son of a father. There is no more registration of the criminal tribes. There are certain people who come under the Madras Restriction of Habitual Offender Act of 1943, but this Act expires on the 30th April and there are also certain orders passed under the Criminal Tribes Act which should be approved by the Governor. Now this is only for a temporary period and all those people who have been registered do not come in under these provisions and there are many people who are registered—there may be a hundred or two hundred of them—who are not likely to commit offences and who are now restricted either to report to the police or reside in particular places. But we should be able to prevent them and there is no law now existing under which we can prevent them. What the Government have done is that they have brought this as a temporary measure and as soon as the Act is passed, under section 13 among those who have been registered under the Criminal Tribes Act, those who have been committed already and those who are really dangerous can be notified or deemed to be notified for the purposes of this Act so that the restrictions may continue. That is the only object of the Bill. It is not because I have not got sympathy for the habitual offender that I support the Bill. Really I have much more sympathy towards them than people who profess to have, because, I know more about the conditions under which they live. So, the remarks made by hon. Members are only an attempt to make out that something wrong has been committed. Though it may be unparliamentary, I would say, they are only shedding crocodile tears with some other purpose and not with any sympathy towards habitual offenders."

MR. PRESIDENT :—" Perhaps, if that clause is removed and if there is no registration the Hon. Minister also may come in under that section."

THE HON. SRI K. MADHAVA MENON :—" No, Sir. I have put in three or four conditions—theft or murder or dacoity or counterfeiting coins."

DR. V. K. JOHN :—" Is it parliamentary, Sir, to refer to a member as crocodile."

THE HON. SRI K. MADHAVA MENON :—" Well, Sir, if the cap fits the head of my hon. Friend, let him take it. Dr. John as usual opposed the Bill and perhaps, now that he has become the Leader of the Opposition, he thinks that, as Leader of the Opposition, he must oppose everything for nothing."

22nd April 1948]

DR. V. K. JOHN :—“ That is a remark uncalled for. In fact I supported Mr. Gopala Reddi's Bill.”

THE HON. SRI K. MADHAVA MENON :—“ It is wrong to imagine that a habitual offender can come only from the criminal tribe. Not at all, because there is going to be no longer any more criminal tribes in this Province and you will see that a habitual offender is specifically defined as a man who has been convicted thrice for the offences mentioned in the schedule. It does not refer to criminal tribes, because there is going to be no more criminal tribes hereafter. My hon. Friend thinks that I should have given him figures of habitual offenders. They must come in only hereafter. If he wants figures as to who are habitual offenders who have been convicted a number of times, I must go to all the Collectors' offices and compile figures and I should also go to the Guntur district where there are the Chenchus also. So, it is really impossible to compile the figures from the registers of the various offices since 1924. Yet, I cannot give the figures of habitual offenders because as I said before they are to come in only hereafter under this Act.

“ Another very serious objection of Dr. John was, that relating to section 5. A man notified must intimate to the authority concerned his change of residence or intended change. It is done more to help him than anything else. Supposing a habitual offender resides in a particular place and he has got another house elsewhere and instead of giving the time of change, he may say he intends to go a month hence to his other residence. Could he not do it? He cannot be charged or found fault with, if he intended to change and did not change. He has merely to inform the nearest Police station about it. He may or may not change, but an opportunity is given to him. I do not see any objection in that.

“ Dr. John waxed eloquent about the nervousness of Government about courts. It is really a misrepresentation of facts. If you read section 15 you will see that ‘ no court shall question the validity of any notification (other than one under section 3) or order, issued under this Act.’ The very crux of the whole matter is, a person should be notified as an offender. The most important thing is the notification of an offender and there is section 3 under which he is given an opportunity to question it in a court of law. What are the other notifications? Sections 4 and 6 are the other sections relating to notification. According to section 4, the Government may, by notification, delegate their powers to a District Magistrate. The person concerned should be given an opportunity to file a suit in a court of law against the order of the District Magistrate. If Government delegates the power to a District Magistrate then, they must also give the power to an offender to prefer an appeal against the order of the District Magistrate. Does Dr. John conceive of such a position. Section 6 says ‘ If in the opinion of the Government it is expedient to do so, they

[Sri K. Madhava Menon] [22nd April 1948]

may, by notification, declare that any notified offender shall be restricted in his movements to a specified area.' So, it is only after a declaration the Government may inform a person to reside in such and such a place. These are all administrative actions to be taken after the Act is passed. That a man must reside in a particular place or locality or that he must report to the police, is not an order which can be quashed in a court of law every day. Then the purpose of the Act will not be served. So, Sir, it was certainly misleading on the part of Dr. John to say that we are afraid of courts. The most important thing, here, is the notification of an offender. There we have given him an opportunity to say why he should not be notified, so that it is very wrong on the part of Dr. John to make such a statement. If you read section 7 it says, 'The Government may, by notification, cancel any declaration made under section 6'. Dr. John wants an appeal there also. I cannot understand the confusion he has created. These are the objections of Dr. John.

"Coming to Mr. Ranga Reddi's observations, perhaps he knows something about the criminal tribes in his area and the harshness to which they are put and so he was feeling that something rigorous might possibly be done in future under the Act in respect of these people. It is not correct to say because a man is the son of a father he should be considered as an offender and registered as such. It can only be done under certain conditions. The remark that the definition of habitual offender applies to everybody is not also correct, because 'habitual offender' has been very clearly defined. We have seen to it that the definition makes everything much clearer and that it does not start confusion. As I have already said with reference to section 16, it is not the intention that we want to notify everybody. It is after all an interim provision and rules under this have to be framed and Government in all probability will consider the question of issuing instructions to the authorities, namely, it is only those people who have committed three offences that need be registered. The matter is under consideration. So, Sir, the objections of Mr. Ranga Reddi have no basis in this case."

MR. PRESIDENT :—"The question is—

'that the Bill for imposing certain restrictions on habitual offenders in the Province of Madras, be taken into consideration'."

The motion was put and carried.

4.15 p.m. Clauses 1 to 18, the schedule and the preamble were separately put and carried and formed part of the Bill.

THE HON. SRI K. MADHAVA MENON :—"Mr. President, I move—

'that the Bill be passed into law.'

22nd April 1948] [Sri K. Madhava Menon]

"It is not at all a very pleasant thing to bring such penal measures before the House but times are such that we have to take preventive measures for the safety of the society as a whole."

DR. V. K. JOHN :—"I suggest, Mr. President, that the Government lay before this House information from time to time how many persons are registered as habitual offenders and what active steps the Government are taking from time to time to reform them."

The motion was put and carried and the Bill was passed into law.

V.—GOVERNMENT MOTION.

AMENDMENT TO SCHEDULES III AND IV TO THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920 (MADRAS ACT V OF 1920.)

THE HON. SRI K. CHANDRAMOULI :—"Mr. President, I move—

'that the draft amendments to the Madras District Municipalities Act, 1920 (Madras Act V of 1920) which it is proposed to make in exercise of the powers conferred by section 305-A of the District Municipalities Act, 1920 (Madras Act V of 1920) be approved.'

"These are merely rules to enable Councils and the Government to carry on the administration with efficiency. Schedule III contains rules concerning proceedings of the Council and Schedule IV, taxation and financial rules. The rules have been placed before hon. members and they are self-explanatory and are made for the convenience of administration and I hope hon. Members will approve them."

SRI R. SURYANARAYANA RAO :—"Mr. President, I am not sure Sir, that these rules are so innocuous as the Hon. Minister for local administration just now wishes us to understand. The papers were all sent to us only yesterday and we have had no time to go through them. They deal with very important matters which impose certain burdens on municipal councils. I will only take one instance to show to you that burdens have been imposed. A new sub-clause (o) under sub-rule 1 of rule 43 is inserted which reads: 'payment of such contribution towards the cost of training commissioners of municipalities as may be fixed by the Provincial Government.' Till now evidently municipal councils were not required to pay any contribution towards the training of municipal commissioners. As was pointed out by the Leader of the Opposition, even these schedules will become part of the Act. Though the notice given is an amendment to Schedule III and IV, it is practically an amendment of the Act, because the schedules form part of the Act. If that Act has been under discussion in this House, you would put the schedule also to the vote of the House

[Sri R. Suryanarayana Rao] [22nd April 1948]

along with the other sections of the Act. I feel nervous to vote on any of these amendments without having proper opportunity of studying them. They run to seven pages and we received them only yesterday. After all, Sir, there is no urgency to have this amendment passed to-day; I suggest it can be taken up some other day so as to enable us to read through the pages and examine the rules. I do not know if the Schedules were published in the *Fort St. George Gazette* to enable the Municipal Councils and local bodies to express their views. That apart—perhaps that is a matter which under the statute they will have to do—so far as we are concerned, a little more time is necessary for us to study the schedules and the amendments proposed. I am sure even the Hon. Minister for Local Administration agrees that they are not so simple or innocuous as he would like us to treat them. I suggest that they may be taken up after we finish discussion of Bills tomorrow.”

MR. PRESIDENT :—“ This has to be finished before the end of the month; 25th April happens to be Sunday and the other House is meeting on the 26th.”

SRI R. SURYANARAYANA RAO :—“ Tomorrow these bills may not take much time.”

THE HON. SRI K. CHANDRAMOULI :—“ I do not mind; I have no objection.”

MR. PRESIDENT :—“ The Government motions will be taken up tomorrow.”

IV.—GOVERNMENT BILLS—cont.

(5) THE MADRAS SALES OF MOTOR SPIRIT TAXATION (AMENDMENT) BILL, 1948 (L.A. BILL NO. 16 OF 1948).

THE HON. SRI B. GOPALA REDDI :—“ Mr. President, I move—

‘ that the Madras Sales of Motor Spirit Taxation (Amendment) Bill, 1948 (L.A. Bill No. 16 of 1948) as passed by the Legislative Assembly be taken into consideration.’

“ Sir, this is not a taxation measure and hon. Members need not be afraid that we are going to levy a tax on petroleum but this is a Bill which brings it on a par with the General Sales Tax Act. There is only one little point of a controversial nature, namely, the wording ‘ tax due ’, we change into ‘ tax assessed ’ and that matter also was accepted by this House when the General Sales Tax was before the House which is that criminal courts need not go into the question whether a tax is due or not. The others are non-controversial matters and they are of no consequence. Instead of the Commissioner of Commercial Taxes, we put in Deputy Commissioner and things like that. I request that the Bill may be taken into consideration.”

22nd April 1948]

SRI B. NARAYANASWAMI NAYUDU :—“ Mr. President, it is not so small as the Hon. Minister thinks. At present, when a demand is made, the assessee says : ‘ This is only due from me and I can only pay this ’ and the matter would go before a criminal court and the magistrate will hold an enquiry and definitely fix the amount due. Now this is all taken away and he has to pay the tax demanded from him. Certainly this is a question of taking away the jurisdiction of a criminal court and saying to the unfortunate assessee : ‘ You must pay what is demanded; otherwise, you will be sent to jail.’ It must be remembered, Sir, that there is always the conflict between the assessee and the assessing authority and I ask why the present jurisdiction of the criminal courts is taken away. By this you are really clothing the assessing authority with enormous powers. What is the trouble under the present arrangements and why is this sought to be changed? Evidently some magistrates said that so much amounts were not due and what was due was something less. I wish to know from the Hon. Minister how many magistrates have held like that and said that the amount demanded was in excess of what was actually due. How do they feel that such judgments were wrong and why do you want to take away such powers from the magistrates? Why do you think of infringing and encroaching upon the powers of the judiciary which you have appointed; do you suspect your magistrates or are they incapable of deciding correctly what is the amount actually due. I am afraid that on principle this must be opposed.”

DR. V. K. JOHN :—“ Mr. President, Sir, this is a very very objectionable Bill. It makes the magistrate a tax-collector. A person can be convicted for failure to pay any tax demanded from him, but he is not given an opportunity to dispute the amount of tax to which he has been assessed. ‘ The magistrate shall specify in the judgment the amount of the tax which the person convicted has failed or evaded to pay and the amount so specified shall be recoverable as if it were a fine.’ It is very wrong to make the magistrate a tax-collector. Have not the Executive Government power and facility to collect tax from a person who has failed or evaded to pay it? Why should there be a provision that the magistrate shall collect the tax as if it were a fine? I object to the principle underlying the Bill as it interferes with the liberty of a subject who is charged that he has failed or evaded to pay the tax.”

THE HON. SRI B. GOPALA REDDI :—“ Mr. President, Sir, we are not doing anything extraordinary; we are only amending this Act to bring it in line with the Madras General Sales Tax Act and the Madras District Municipalities and Local Boards Acts. Whether a person is duly assessed or not is not for the criminal court to say. It is a matter for the civil court and an aggrieved person can certainly challenge the assessment in a civil court. On the other hand, when a defaulter is taken to a criminal court, it is not for him at that stage to dispute the amount of the tax.

4-30
p.m.

[Sri B. Gopala Reddi]

[22nd April 1948]

Besides, we are providing for the constitution of a Tribunal to hear cases arising under the General Sales Tax Act, the Acts relating to Commercial Taxes, etc. Certainly he can go to the tribunal and challenge the assessment. The criminal court is not the proper forum for it. As I said, we are only amending the Act so as to bring it in line with the General Sales Tax and the District Municipalities and Local Boards Acts. So I request that the motion may be adopted."

The motion was put and carried.

Clause 2.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, my friend the Hon. Finance Minister does not want a person to challenge the assessment in a criminal court. The amount of assessment, whether it is ten rupees, twenty rupees or thirty rupees, is the question. Suppose, I am liable to pay a tax of only ten rupees and more is demanded from me. I am prevented from saying to the magistrate that I am liable to pay only so much. Then, there is the method of collecting the tax. You want to make the magistrate a Police officer in order to collect the tax from him without giving him a right to dispute the amount. If you don't pay, the amount shall be collected from you as if it were a fine, and you are also liable to a fine which may extend to one thousand rupees. I ask: Is that correct? Is that jurisprudence? How many such cases have really come up before the magistrates, what is the amount of tax involved and what is the fine realized? The amendment to clause (d) says, 'Any person who fails to pay within the time allowed, any tax demanded from him . . .'. The net result is that for your failure to pay the tax to which you might have been assessed, even wrongly, by a Commercial Tax Officer or a Petrol Officer, you must pay a fine of one thousand rupees and you have got to go to prison and the tax shall be recoverable as if it were a fine. Clause (e) reads: 'Any person who fraudulently evades the payment of any tax due under this Act . . .' and 'the magistrate shall specify in the judgment the amount of the tax . . .'. The words used are 'due under this Act.' Therefore, I contend that the magistrate has still got jurisdiction to determine what the amount of tax is which he has failed or has evaded to pay. While the magistrate has no jurisdiction under clause (e) to determine whether the demand is due under the Act or not, how can he specify in the judgment the amount of the tax which the person has failed or evaded to pay? It is a very serious encroachment to convict a person for failure to pay 'any tax' that is demanded. The fundamental point is this. When you give power to the magistrate to convict him, why should you not give him jurisdiction to go into the correctness of the assessment? Is this the way in which we should pass legislation? Is this your Satyagraha? Agraham comes first, i.e., a fine of one thousand rupees and putting him in jail. Satyam, i.e., determining the correct assessment, comes last."

22nd April 1948]

MR. PRESIDENT :—“ Does the hon. Member know the meaning of the word ‘Agraham’? It means perseverance and not anger.”

SRI B. NARAYANASWAMI NAYUDU :—“ I do not know; perhaps ‘Agraham’ may be called indignation or anger. Whatever it is, the real point is that *Satyam* is divorced from *Satyagraham* and only *Agraham* is maintained. Please determine the amount that is due and then fine him or put him in jail. What is put in is *Duragraha*. Is it jurisprudence? I say, the Magistrate should be given the power to find out whether the tax that is demanded is really the tax that is due.”

Clause 2 was put and carried.

Clauses 3 and 1 and the preamble were put and carried.

THE HON. SRI B. GOPALA REDDI :—“ I move—
‘that the Bill be passed into law’.”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, the Hon. Minister for Finance must be congratulated on calling this Bill a small Bill, a very innocuous Bill. If you don’t pay ‘any tax that is demanded’, you will be fined only one thousand rupees! If you don’t pay that, you will only go to jail. That is all. Really, it is a very innocuous Bill!”

The motion was put and carried.

(6) THE MADRAS CIVIL COURTS (AMENDMENT) BILL, 1948
(L.A. BILL NO. 17 OF 1948)

THE HON. SRI K. MADHAVA MENON :—“ Sir, the Bill that I am going to move is also a very small Bill and I am sure it will have the support of even super-critics like Mr. Narayanaswami Nayudu. I move—

‘that the Madras Civil Courts (Amendment) Bill, 1948 (L.A. Bill No. 17 of 1948) as passed by the Legislative Assembly be taken into consideration at once.’

“ At present there is no permanent sub-court attached to any of the District Courts in the Ceded districts. Accumulation of work in any of the District Courts is met by the establishment of temporary sub-court for short periods. This procedure is cumbersome, and the High Court has recommended the establishment of a permanent Sub-Judge’s Court for the Ceded districts as a whole, it being left to the High Court to determine from time to time in which of the districts and for what periods the court should sit. The object of this Bill is to amend the Madras Civil Courts Act, 1873, so as to permit of the appointment of one Subordinate Judge for two or more districts. The Subordinate Judge will hold his court in each of the districts for such period as may be fixed by the High Court. The court will have no original jurisdiction. It

[Sri K. Madhava Menon]

[22nd April 1948]

shall try or dispose of only such suits, appeals and other proceedings as may be transferred to it by the District Judge concerned. It is only to facilitate the disposal of accumulated work in places where there is no scope for a permanent sub-court but where work has got to be disposed of that this Bill has been brought forward."

* SRI B. BHIMA RAO :—" Mr. President, Sir, I am glad that the Government have brought forward this measure at least at this late stage. This measure had been recommended thirty years ago by Mr. Phillips, District Judge of Bellary, who afterwards became a High Court Judge. The work in the four districts is just sufficient for a permanent Subordinate Judge. As soon as he finishes his work in a particular district, he goes to the other district. I feel that this is a very necessary measure.

"I have got to make only one suggestion in the interests of the administration of justice. My suggestion is that no native of Rayalaseema should be appointed as a Sub-Judge in that area. It is in the interests of the people themselves. Some of those who worked under me as juniors are now acting as Sub-Judges and they will not thank me for making this suggestion in this House. I know that. Still, in the interests of the people and the purity of the administration of justice, I make bold to make this suggestion in this House."

MR. PRESIDENT :—" Is this Bill meant only for the Ceded districts? "

THE HON SRI K. MADHAVA MENON :—" This Bill gives general power to the Government to appoint one Subordinate Judge for two or more districts."

SRI B. BHIMA RAO :—" I do not know that. Anyway, this point can be borne in mind in the selection of Subordinate Judges for the Ceded districts. Judiciary is one of those departments which are crystal clear, absolutely pure and beyond criticism, and I want that that clearness and purity should be maintained. It is with that view that I make this suggestion."

SRI N. RANGA REDDI :—" Mr. President, Sir, while supporting the Bill, I would like to oppose the suggestion made by Mr. Bhima Rao. I cannot subscribe to the proposition that a person hailing from Rayalaseema should not be posted as a Subordinate Judge in that area."

MR. PRESIDENT :—" I think that he has withdrawn from that position."

SRI N. RANGA REDDI :—" No, he has not withdrawn; he still maintains that a person hailing from Rayalaseema should not be posted as a Sub-Judge in that area. Sub-Judges are selected for their probity and integrity, irrespective of caste, creed or community."

22nd April 1948]

MR. PRESIDENT:—“ Does the hon. Member mean that a native of a district should not be posted in that district or whether he should not be posted to any of the Rayalaseema districts? That is, a man from Cuddapah should not be posted to Anantapur.”

SRI B. BHIMA RAO:—“ By relationship, by friendship or by other ties, there is close affinity among the people of the four districts. That is why I said that a native of Rayalaseema should not be posted anywhere in that area. In the best interests of the administration of justice only, I make the suggestion.”

MR. PRESIDENT (after a moment's hesitation):—“ I suppose you include Chittoor also in the dictum. Yes; you can continue. I am taking time to recover from the shock.”

SRI N. RANGA REDDI:—“ If the proposition of my hon. Friend is carried to its logical conclusion, we are not fit to have Swaraj. We should always be ruled by Englishmen or Germans or by anybody outside India, as otherwise we cannot have justice. That is the proposition which my hon. Friend wants to maintain in the 20th century and in 1948. If we cannot administer justice to our own people, I do not think we are fit for Swaraj. I am really sorry that such a proposition has been put forward by a Member of this House who has had considerable experience at the Bar. I do not think the Congress Government will give serious thought to a proposition of that sort.”

SRI R. SURYANARAYANA RAO:—“ I too must strongly protest against the insinuation contained in the suggestion of Mr. Bhima Rao. Are we, the people of the Ceded districts, so low in character as to be influenced by other considerations in arriving at decisions? Are we the only people of depraved character or are there others also? Does he seriously suggest that a Malayalee should not be posted to Malabar? I am surprised that Mr. Bhima Rao with his experience in public life and as a lawyer of many years' standing, should have put forward the suggestion. As Mr. Ranga Reddi said, I hope the Government will not take such suggestions seriously. The object of the Bill is quite different from the object with which the suggestion is being made.”

THE HON. SRI K. MADHAVA MENON:—“ Mr. President, Sir, the Bill only seeks to amend the Madras Civil Courts Act, 1873, so as to permit of the appointment of one Subordinate Judge for two or more districts. Mr. Bhima Rao's suggestion that a native of Rayalaseema should not be posted as a Subordinate Judge in any of the five districts in Rayalaseema took my breath away. Apart from that, the appointment and postings of Subordinate Judges are mostly done on the recommendations of the High Court and not by the Government themselves. The proposition leads to this that a Madrassi cannot be a Judge of the Madras High Court,

[Sri K. Madhava Menon] [22nd April 1948]

because he may have relatives in the province, and a Malayalee cannot be a District Judge in Malabar and so on. I think that Mr. Bhima Rao has not fully understood the implications of what he said. His lack of confidence in his Rayalaseema friends is a matter to be deplored."

The motion was put and carried.

Clauses 2 and 1 and the preamble were put and carried.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
‘that the Bill be passed into law’."

The motion was put and carried.

The House then adjourned to meet again at 11 a.m. the next day.

VI.—PAPERS LAID ON THE TABLE OF THE HOUSE.

1. Notification appended to G.O. No. 291, L.A., dated the 20th February 1948, constituting a municipality and excluding the area defined in the Schedule from the jurisdiction of the East Godavari District Board.

2. G.O. No. 276, Finance, dated 30th March 1948, relating to the Schedule of the Third Supplementary Statement of authorized further expenditure for 1947-48 as authenticated by His Excellency the Governor.

3. G.O. No. 308, Finance, dated the 31st March 1948, relating to the Schedule of authorized expenditure for 1948-49 as authenticated by His Excellency the Governor.

4. Notification appended to G.O. No. 423, L.A., dated the 8th March 1948, relating to the constitution of the Chirala (Guntur) Municipality.

5. The Madras Re-enacting and Repealing (No. I) Bill, 1948 (L.A. Bill No 3 of 1948) as passed by the Legislative Assembly and revived therefrom in the Council.

6. The Madras Re-enacting (No. II) Bill, 1948 (L.A. Bill No. 6 of 1948) as passed by the Legislative Assembly and received therefrom in the Council.

7. The Madras Tobacco Taxation of Sales and Licensing (Re-enacting) Bill, 1948 (L.A. Bill No. 12 of 1948) as passed by the Legislative Assembly and received therefrom in the Council.

8. The Madras Restriction of Habitual Offenders Bill (L.A. Bill No. 13 of 1948) as passed by the Legislative Assembly and received therefrom in the Council.

22nd April 1948]

9. *The Madras Re-enacting (No. III) Bill, 1948 (L.A. Bill No. 14 of 1948) as passed by the Legislative Assembly and received therefrom in the Council.*

10. *The Madras Lapsed Acts (Removal of Doubts) Bill, 1948 (L.A. Bill No. 15 of 1948) as passed by the Legislative Assembly and received therefrom in the Council.*

11. *The Madras Sales of Motor Spirit Taxation (Amendment) Bill, 1948 (L.A. Bill No. 16 of 1948) as passed by the Assembly and received therefrom in the Council.*

12. *The Madras Civil Courts (Amendment) Bill, 1948 (L.A. Bill No. 17 of 1948) as passed by the Assembly and received therefrom in the Council.*



[22nd April 1948]

APPENDIX I.

[Vide item IV (1) on page 132 supra.]

The Madras Re-enacting and Repealing (No. 1) Bill
(L.A. Bill No. 3 of 1948).

(As passed by the Assembly.)

WHEREAS the Governor of Madras, by a Proclamation made under section 93 of the Government of India Act, 1935, on the 30th day of October 1939, assumed to himself all powers vested by or under that Act in the Provincial Legislature and in either Chamber of the Provincial Legislature, subject to the provisions contained in the Proclamation; AND WHEREAS in pursuance of those powers many laws have been enacted;

26 Geo. 5,
Ch. 2.

AND WHEREAS the said Proclamation was revoked by the Governor on the 30th day of April 1946;

AND WHEREAS sub-section (4) of the said section 93 had provided that the laws so enacted should, subject to the terms thereof, continue to have effect until two years elapsed from the date on which the Proclamation ceased to have effect, unless sooner repealed or re-enacted by Act of the appropriate Legislature;

AND WHEREAS notwithstanding the omission of section 93 from the Government of India Act, 1935, by the India (Provisional Constitution) Order, 1947, the laws aforesaid continue, by virtue of paragraph 6 of the said Order, to have effect as described in the foregoing paragraph;

26 Geo 5,
Ch. 2.

AND WHEREAS it is expedient to re-enact, with suitable modifications some of the laws aforesaid permanently and some of the other laws for a period of one year, and to repeal certain of the remaining laws;

It is hereby enacted as follows :—

1. (1) This Act may be called the Madras Re-enacting and Repealing (No. I) Act, 1948.

(2) It shall come into force on the 29th day of April 1948.

2. The Acts specified in the First Schedule are hereby re-enacted permanently, with the modification specified in section 5.

3. The Act specified in the Second Schedule are hereby re-enacted permanently, with the modification specified in section 5 and the further modifications specified in the fourth column of that Schedule.

Short title
and com-
mencement.

Permanent
re-enactment
of certain
Acts.

Permanent
re-enact-
ment of
certain Acts
with modifi-
cations.

22nd April 1948]

4. (1) The Acts specified in the Third Schedule, with the modification specified in section 5, shall remain in force up to and inclusive of the 29th day of April 1949. Temporary re-enactment of certain Acts.

Madras Act XX of 1943.

(2) The Madras Co-operative Societies (Amendment) Act, 1943, with the modification specified in section 5, shall remain in force up to and inclusive of the 29th day of April 1951.

(3) Upon the expiry of the Acts specified in sub-sections (1) and (2)—

Madras Act I of 1891.

(a) section 8 of the Madras General Clauses Act, 1891, shall apply as if the Acts so specified had then been repealed by a Madras Act;

(b) save as provided in clause (a), the Acts, if any, amended by the Acts so specified shall have operation as if the latter Acts had never been enacted.

5. In the preamble to each of the Acts referred to in section 2, 3, 4 (1) and 4 (2), for the paragraph containing the enacting formula and the paragraph preceding that paragraph, the following words shall be substituted, namely:— Modification of preambles to certain Acts.

“It is hereby enacted as follows:—”

6. The Acts specified in the Fourth Schedule are hereby repealed.

Repeal of certain Acts, Re-enactment not to affect operation of certain amending Acts passed before this Act.

7. The re-enactment of any Act by section 2, 3, 4 (1) or 4 (2) of this Act shall not be deemed to affect the operation of any amendment made in the Act so re-enacted or in any enactment amended by that Act, on or after the 30th day of April 1946 and before the commencement of this Act.

THE FIRST SCHEDULE.

Acts permanently re-enacted.

(See section 2.)

Year.	Number.	Short title.
(1)	(2)	(3)
1940	V	The Prisons (Madras Amendment) Act, 1940.
1940	VII	The Madras City Police (Amendment) Act, 1940.
1940	VIII	The Madras Suppression of Immoral Traffic (Amendment) Act, 1940.
1940	XIV	The Madras District Municipalities and Local Boards (Amendment) Act, 1940.
1940	XVI	The Madras Christian Marriages Validation Act, 1940.
1940	XIX	The Madras Rinderpest Act, 1940.
1940	XX	The Indian Medical Degrees (Madras Amendment) Act, 1940.

[22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>
(1)	(2)	(3)
1941	IV	The Madras City Municipal (Amendment) Act, 1941.
1941	V	The Madras Christian Marriages Validation Act, 1941.
1941	VII	The Madras City Municipal (Second Amendment) Act, 1941.
1941	XI	The Madras Prohibition (Supplementary) Act, 1941.
1941	XIII	The Madras City Police (Amendment) Act, 1941.
1941	XVI	The Madras Nurses and Midwives (Amendment) Act, 1941.
1941	XX	The Canals and Public Ferries (Amendment) Act, 1941.
1941	XXI	The Madras Medical Registration (Amendment) Act, 1941.
1941	XXIV	The Madras Christian Marriages (Second Validation) Act, 1941.
1942	II	The Madras Registration of Births and Deaths (Amendment) Act, 1942.
1942	VIII	The Tanjore Chattram Endowments (Utilization) Act, 1942.
1942	XI	The Rajapalayam Municipal Executive Authority (Functions Validation) Act, 1942.
1942	XII	The Madras District Municipalities and Local Boards (Amendment) Act, 1942.
1942	XIV	The Indian Tolls (Madras Amendment) Act, 1942.
1942	XV	The Madras City Municipal (Amendment) Act, 1942.
1942	XVI	The Periyar Irrigation Tanks (Preservation) (Amendment) Act, 1942.
1942	XVII	The Madras Debt Conciliation (Amendment) Act, 1942.
1942	XVIII	The Madras District Municipalities and Local Boards (Second Amendment) Act, 1942.
1942	XXI	The Madras Rivers Conservancy (Amendment) Act, 1942.
1942	XXIII	The Madras Nurses and Midwives (Amendment) Act, 1942.
1942	XXV	The Madras Probation of Offenders (Amendment) Act, 1942.
1942	XXVII	The Madras City Municipal and District Municipalities (Amendment) Act, 1942.
1942	XXX	The Madras Prohibition (Amendment) Act, 1942.
1942	XXXIV	The Madras Motor Vehicles Taxation (Amendment) Act, 1942.

22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>
(1)	(2)	(3)
1942	XXXVI	The Madras City Municipal and District Municipalities (Second Amendment) Act, 1942.
1942	XXXVII	The Madras Cotton Control (Amendment) Act, 1942.
1943	I	The Madras Sales of Motor Spirit Taxation (Amendment) Act, 1943.
1943	IV	The Madras Medical Registration (Amendment) Act, 1943.
1943	VII	The Madras Court of Small Causes (Validation of Proceedings) Act, 1943.
1943	IX	The Madras Debt Conciliation (Amendment) Act, 1943.
1943	X	The Annamalai University (Amendment) Act, 1943.
1943	XI	The Madras City Municipal (Amendment) Act, 1943.
1943	XII	The Indian Lunacy (Madras Amendment) Act, 1943.
1943	XV	The Madras Agriculturists Relief (Amendment) Act, 1943.
1943	XXVIII	The Madras Elementary Education (Amendment) Act, 1943.
1943	XXXI	The Madras Debt Conciliation (Second Amendment) Act, 1943.
1944	III	The Madras City Municipal and District Municipalities (Amendment) Act, 1944.
1944	VI	The Madras Local Boards (Amendment) Act, 1944.
1944	VIII	The Madras District Municipalities (Amendment) Act, 1944.
1944	XVIII	The Madras District Municipalities and Local Boards (Second Amendment) Act, 1944.
1945	I	The Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945.
1945	VIII	The Madras Electricity Duty (Amendment) Act, 1945.
1945	X	The Madras Local Boards (Amendment) Act, 1945.
1945	XII	The Madras Prevention of Couching Act, 1945.
1945	XIII	The Madras Prevention of Begging Act, 1945.
1945	XVII	The Court Fees (Madras Amendment) Act, 1945.
1945	XVIII	The Madras City Municipal (Amendment) Act, 1945.
1945	XX	The Madras District Municipalities and Local Boards (Amendment) Act, 1945.
1945	XXII	The Madras Civil Courts (Amendment) Act, 1945.

[22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>
(1)	(2)	(3)
1945	XXIII	The Madras District Municipalities (Amendment) Act, 1945.
1945	XXIV	The Malabar Tenancy (Second Amendment) Act, 1945.
1946	III	The Madras Legislative Assembly (Railway Employees Removal of Disqualifications) Act, 1946.
1946	V	The Madras Debt Conciliation (Amendment) Act, 1946.
1946	VI	The Madras District Municipalities (Second Amendment) Act, 1946.

THE SECOND SCHEDULE.

Acts permanently re-enacted with specified modifications.

(See section 3.)

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>	<i>Modifications.</i>
(1)	(2)	(3)	(4)
1940	III	The Madras Commercial Crops Markets (Amendment) Act, 1940.	Sections 2 (a), 3, 4, 5 and 6 (a) shall be omitted.
1941	III	The Madras Electricity Duty (Amendment) Act, 1941.	In section 2, sub-section (2) shall be omitted, and the brackets and figure " (1) " occurring at the beginning of sub-section (1) shall be omitted.
			In section 3, for the word "amendments", the word "amendment" shall be substituted.
1943	II	The Madras Electricity Duty (Amendment) Act, 1943.	In section 2, for the opening portion beginning with the words and figure " In section 3 " and ending with the words " added, namely :—", the following shall be substituted, namely :—

" In section 3 of the Madras Electricity Duty Act, 1939 (hereinafter referred to as the said Act), after sub-section (3) the following sub-section and Explanation shall be added, namely :— "

Madras Act
V of 1939.

22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>	<i>Modifications.</i>
(1)	(2)	(3)	(4)
1943	III	The Legal Practitioners (Madras Amendment) Act, 1943, as amended by Madras Act XIV of 1944.	In section 3 (c)— (a) in clauses (iv), (v) and (vi) of new sub-section (2B), for the words “may be consulted” the words “shall be consulted” shall be substituted; (b) in clause (vii) of the same sub-section, for the words, brackets and figures “to any Court, Judge, Magistrate or Officer entitled to consult it under clause (iv) or clause (v) or clause (vi), as the case may be”, the words, brackets and figures “to any Court which, or any Judge, Magistrate or Officer who, is required to consult it under clause (iv), clause (v) or clause (vi), as the case may be,” shall be substituted.
1943	V	The Presidency-Towns Insolvency (Madras Amendment) Act, 1943.	In section 16, in new sub-section (2) (b), for the words “in a composition”, the words “under a composition or scheme” shall be substituted.
1943	XII	The Madras Local Boards (Amendment) Act, 1943.	In section 2, clause (i), for the words “The Board of Revenue may, of its own motion, and shall on a direction from the Provincial Government, by notification, resume”, the words “The Board of Revenue shall, if so directed by the Provincial Government, by notification resume” shall be substituted.
1943	XXIII	The Madras Pawn-brokers Act, 1943, as amended by section 2 of Madras Act XXVI of 1945.	After section 21, the following section shall be inserted, namely:— “21-A. The Provincial Government may, by general or special order, exempt any company incorporated under the Indian Companies Act, 1913, before the 1st day of November 1944, from any of the provisions of this Act or direct that

Power to exempt companies registered before 1st November 1944.

[22nd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)

any such provisions shall apply to such company with such modifications as may be specified in the order."

1945	VI	The Malabar Tenancy (Amendment) Act, 1945.	In section 2, clauses (i) and (iii), for the words "during the continuance of the present war and for such period thereafter," the words "for such period" shall be substituted.
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1945	XXI	The Madras Commercial Crops Markets (Amendment) Act, 1945.	1. For section 5, the following section shall be substituted, namely:— "5. For section 6 of the said Act, the following section shall be substituted, namely:—
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Substitution of new section for section 6, Madras Act XX of 1933.

"6. (1) Every market committee shall consist of such number of members, not exceeding twelve, as may be fixed for it by the Provincial Government.

Constitution of committee.

(2) The District Agricultural Officer having jurisdiction over the notified area shall *ex officio* be a member of the market committee established for such area.

Explanation.—Where there are two or more District Agricultural Officers having jurisdiction over different portions of a notified area, the Provincial Government shall decide which of such officers shall be the District Agricultural Officer for the purposes of this sub-section.

(3) Each of the following electorates shall elect from among the persons comprising it, such number of members as the Provincial Government may determine, to the market committee—

(a) growers in the notified area of the

22nd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1945— cont.	XXI— cont.	The Madras Commercial Crops Markets (Amend- ment) Act, 1945—cont. (	commercial crop or of any of the commercial crops. (b) persons licensed under section 5 in the notified area in respect of the commercial crop ; or any of the commer- cial crops ; and buyers, sellers, and buyers and sellers in such area of the commercial crop or of any such crop, registered as such for a period of not less than one year under the rules prescribed in that behalf. (4) The Provincial Govern- ment may appoint to every market committee such number of members as they think fit, not exceeding the number of members to be elected : Provided that where a market committee is established for any noti- fied area for the first time— (i) the Provincial Gov- ernment shall appoint all the members of such committee for a period of one year ; and (ii) if before the expiry of the period of one year aforesaid, elec- tions of members to the committee could not be held, or if for any reason the Provin- cial Government con- sider it desirable that the committee should consist solely of mem- bers appointed by them, they may ex- tend the term of office of all or any of the members appointed under clause (i), or

[22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>	<i>Modifications.</i>
(1)	(2)	(3)	(4)
1945— <i>cont.</i>	XXI— <i>cont.</i>	The Madras Commercial Crops Markets (Amend- ment) Act, 1945— <i>cont.</i>	appoint new members in their places, for such period or periods not exceeding one year in the aggregate as they may think fit.

- (5) Every member other than a member appointed under the proviso to sub-section (4), shall hold office for a period of three years from the date of occurrence of the vacancy to which he was elected or appointed, or from the date of his election or appointment, whichever is later :

Provided that a member elected under clause (b) of sub-section (3) shall cease to hold his office if he ceases to be a member of the electorate by which he was elected :

Provided further that a member of the committee shall cease to hold his office if he absents himself from three consecutive meetings of the committee, including meetings which for want of a quorum could not be held.

- (6) (a) For the purpose of the second proviso to sub-section (5), no meeting of the committee from which a member absents himself shall be counted against him, if due notice of that meeting was not given to him.

- (b) Where a person ceases to be a member under the proviso aforesaid, the chairman shall at once intimate the fact in writing to such person and report the same to the committee at its next meeting. If

22nd April 1948]

Year.	Number.	Short title.	Modifications.
(1)	(2)	(3)	(4)
1945— cont.	XXI— cont.	The Madras Commercial Crops Markets (Amend- ment) Act, 1945—cont.	such person applies for restoration <i>suo motu</i> to the committee on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the committee may, at the meeting next after the receipt of such application, restore him to his office of member, provided that a member shall not be so restored more than twice during his term of office. (7) Any member of a market committee may at any time be removed from office by the Provincial Government for any of the reasons specified in the rules made under this Act. (8) Vacancies arising by efflux of time among elected members of any market committee may be filled at elections which may be fixed by the Collector to take place on such days, not earlier than two months before the date on which the vacancies arise, as he thinks fit. (9) Every market committee shall elect one of its members to be its chairman and another member to be its vice-chairman." 2. In section 12, for clause (i), the following clause shall be substituted, namely :— "(i) for clause (i), the following clause shall be substituted, namely :— "(i) the election, appointment and removal of members of a market

[22nd April 1948]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>	<i>Modifications.</i>
(1)	(2)	(3)	(4)
1945— <i>cont.</i>	XXI— <i>cont.</i>	The Madras Commercial Crops Markets (Amendment) Act, 1945— <i>cont.</i>	committee; the preparation and revision of lists of electors; and the payment of all expenditure in connexion with or incidental to elections; ”

1946	II	The Madras Motor Vehicles Taxation (Amendment) Act, 1946.	1. In section 2 (i) (a), for the words “as may be determined by the Provincial Government in the prescribed manner,” the words “as the Provincial Government may, by order, determine” shall be substituted. 2. In section 2 (ii), for the words “as may be prescribed” in both the places where they occur, the words “as the Provincial Government, may, by order, determine” shall be substituted.
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THE THIRD SCHEDULE.

Acts temporarily re-enacted for a period of one year.

[See section 4 (1).]

<i>Year.</i>	<i>Number.</i>	<i>Short title.</i>
(1)	(2)	(3)
1940	IX	The Madras Motor Vehicles Taxation (Amendment) Act, 1940.
1941	VIII	The Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1941.
1941	XV	The Madras Elementary Education (Amendment) Act, 1941.
1941	XXIII	The Madras City Police and Towns Nuisances (Amendment) Act, 1941.
1942	XX	The Madras City Police, Towns Nuisances and Prevention of Cruelty to Animals (Amendment) Act, 1942.

22nd April 1948]

<i>Year.</i> (1)	<i>Number.</i> (2)	<i>Short title.</i> (3)
1942	XXXI	The Madras City Police (Amendment Act), 1942.
1945	XVI	The Madras City Improvement Trust Act, 1945.
1946	VIII	The Madras Elementary Education (Amendment) Act, 1946.

THE FOURTH SCHEDULE.

Acts Repealed.

(See section 6.)

<i>Year.</i> (1)	<i>Number.</i> (2)	<i>Short title.</i> (3)
1940	II	The Madras Finance Act, 1940.
1940	X	The Madras Payment of Salaries and Removal of Disqualifications (Temporary Repeal) Act, 1940.
1940	XIII	The Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1940.
1941	IX	The Madras Finance Act, 1941.
1941	XVII	The Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1941.
1942	IV	The Madras Finance Act, 1942.
1942	VI	The Madras City Municipal, District Municipalities and Local Boards (Amendment) Act, 1942.
1942	XXXV	The Madras Prohibition (Second Amendment) Act, 1942.
1943	XXII	The Madras Prohibition (Suspension) Act, 1943.
1944	VII	The Madras Commercial Crops Markets (Amendment) Act, 1944.
1944	XIV	The Legal Practitioners (Madras Amendment) Act, 1944.
1945	XI	The Madras Medical Registration (Amendment) Act, 1945.
1945	XXVI	The Madras Pawnbrokers (Amendment) Act, 1945.

[22nd April 1948]

APPENDIX II.

[Vide item IV (2) on page 155 supra.]

A Bill for the removal of doubts regarding the operation of certain enactments.

(As passed by the Assembly.)

WHEREAS the Acts specified in the Schedule below, being Acts made by the Governor of Madras under a Proclamation issued by him under section 93 of the Government of India Act, 1935, will cease to have effect on the 30th day of April 1948 on the lapse of two years from the date on which the said Proclamation was revoked;

26 Geo. 5
Ch. 2.

AND WHEREAS it is expedient to remove some doubts regarding the operation of those Acts;

It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Madras Lapsed Acts (Removal of Doubts) Act, 1948.

(2) It shall come into force on the 29th day of April 1948.

Conse-
quences of
expiry of
Acts
specified
in the
Schedule.

2. Upon the expiry of the Acts specified in the Schedule—

(a) section 8 of the Madras General Clauses Act, 1891, Madras Act shall apply, as if the Acts so specified had then been repealed I of 1891. by a Madras Act;

(b) save as provided in clause (a), the Acts, if any, amended by the Acts so specified shall have operation as if the latter Acts had never been enacted.

THE SCHEDULE.

(See section 2.)

Year.	Number.	Short title.
(1)	(2)	(3)
1941	XIV	The Madras Local Boards (Amendment) Act, 1941.
1942	IX	The Andhra University (Amendment) Act, 1942.
1942	X	The Madras University (Third Amendment) Act, 1942.
1942	XXVI	The Madras Estates Land (Amendment) Act, 1942.
1943	VI	The Madras District Municipalities (Amendment) Act, 1943.
1944	II	The Madras District Municipalities and Local Boards (Amendment) Act, 1944.
1944	IV	The Madras Public Health (Amendment) Act, 1944.
1945	XV	The Madras Electricity (Validation of Levy of Sur-charges) Act, 1945.
1946	I	The Madras District Municipalities (Amendment) Act, 1946.
1946	IX	The Madras Land Acquisition (Ex-Service Men's Settlements) Act, 1946.

22nd April 1948]

APPENDIX III.

[Vide item IV (3) on page 158 supra.]

A Bill to re-enact the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, and to repeal and re-enact with certain modifications, the Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act, 1944.

(As passed by the Assembly.)

26 Geo. 5,
ch. 2. WHEREAS the Governor of Madras by a Proclamation made under section 93 of the Government of India Act, 1935, on the 30th day of October 1939 assumed to himself all powers vested by or under that Act in the Provincial Legislature and in either Chamber of the Provincial Legislature, subject to the provisions contained in the Proclamation;

AND WHEREAS in pursuance of those powers, the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, and the Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act, 1944, have been enacted;

Madras Act
IV of 1940.
Madras Act
XII of 1944.

AND WHEREAS the said Proclamation was revoked by the Governor on the 30th day of April 1946;

AND WHEREAS the two Acts aforesaid will expire on the 30th day of April 1948, by reason of sub-section (4) of the said section 93 read with paragraph 6 of the India (Provisional Constitution) Order, 1947;

AND WHEREAS it is expedient to re-enact the Madras Tobacco (Taxation of Sales and Licensing) (Amendment) Act, 1940, and to repeal and re-enact with certain modifications the Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act, 1944;

Madras Act
IV of 1940.

Madras Act
XII of 1944.

It is hereby enacted as follows:—

1. This Act may be called the Madras Tobacco Taxation Short title. of Sales and Licensing (Re-enacting) Act, 1948.

2. (1) The Madras Tobacco (Taxation of Sales and Licen- Re-enact-
sing) (Amendment) Act, 1940, is hereby re-enacted, subject ment of
to the modification specified in sub-section (2). Madras Act
IV of 1940.

Madras Act
IV of 1940.

(2) In the preamble to the Act aforesaid, for the second and third paragraphs, the following paragraph shall be substituted, namely:—

“It is hereby enacted as follows:—”

Explanation.— Nothing contained in this section shall be deemed to affect the operation of section 3 of this Act.

3. The operation of the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, as amended by Madras Act IV of 1940, is hereby suspended:

Madras Act
VIII of 1939.

Suspension
of Madras
Act VIII of
1939, as
amended by
Madras Act
IV of 1940.

Provided that the Provincial Government may, by notification in the *Fort St. George Gazette* and with effect from such

[22nd April 1948]

date as may be specified therein, cancel such suspension, whereupon the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, amended as aforesaid, shall come into force in the whole of the Province of Madras on the date so specified.

Effect of
suspension
of Madras
Act VIII
of 1939.

4. So long as the operation of the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, remains suspended by virtue of section 3 of this Act, section 4 of the Madras General Sales Tax Act, 1939, shall have effect as if for the words, brackets and figures "manufactured tobacco as defined in the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939" occurring therein, the words "tobacco in any form, whether manufactured or not," had been substituted.

Repeal of
Madras Act
XII of 1944.

5. The Madras Tobacco Taxation of Sales and Licensing (Repeal) and General Sales Tax (Amendment) Act 1944, is hereby repealed; and by reason of such repeal, the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939, as amended by Madras Act IV of 1940 shall, subject to the provisions of section 3 of this Act, be deemed to have revived.

APPENDIX. IV

[Vide item IV (4) on page 165 supra.]

A Bill for imposing certain restrictions on habitual offenders in the Province of Madras.

(As passed by the Assembly.)

WHEREAS it is expedient to impose certain restrictions on habitual offenders in the Province of Madras; It is hereby enacted as follows:—

PRELIMINARY.

1. (1) This Act may be called the Madras Restriction of Habitual Offenders Act, 1948.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force on the 29th day of April 1948.

Short title,
extent and
commence-
ment.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "district" includes the presidency-town;

(2) "District Magistrate" means in the case of the presidency-town, the Commissioner of Police;

(3) "Government" means the Provincial Government;

Definitions.

22nd April 1948]

(4) "habitual offender" means a person who, before or after the commencement of this Act, has been sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, on not less than three occasions, for one or another of the offences under the Indian Penal Code set forth in the Schedule, each of the subsequent sentences having been passed in respect of an offence committed after the passing of the sentence on the previous occasion;

Explanation.—The passing of an order requiring a person to give security for good behaviour with reference to section 110 of the Code of Criminal Procedure, 1898, shall be deemed to amount to the passing of a sentence of substantive imprisonment within the meaning of this clause.

(5) "notification" means a notification published in the *Fort St. George Gazette*;

(6) "notified offender" means a habitual offender in respect of whom a notification has been issued under section 3 and is in force;

(7) "prescribed" means prescribed by rules made under this Act;

(8) "settlement" means a settlement established or deemed to be established under section 8.

NOTIFICATION OF OFFENDERS AND RESTRICTIONS OF THEIR MOVEMENTS.

3. (1) The Government may, by notification,—

(a) if they are satisfied that any person is a habitual offender, declare that he shall be subject to the provisions of this Act to such extent and subject to such restrictions, if any, as may be specified in the notification;

Power of Government to notify habitual offenders.

(b) cancel or modify any such declaration.

(2) Before any notification is issued in respect of any person under sub-section (1), clause (a), or modified to his disadvantage under sub-section (1), clause (b), a reasonable opportunity shall be given to him to show cause against such issue or modification.

4. The Government may, by notification, delegate their powers under section 3 to a District Magistrate, in respect of persons ordinarily residing in his district, subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by them.

Delegation of powers to District Magistrate.

5. Every notified offender shall intimate to such authority and in such manner as may be prescribed, his place of residence, every change or intended change thereof, and every absence or intended absence therefrom:

Notified offenders to intimate residence and change of residence.

[22nd April 1948]

Provided that the District Magistrate or any officer authorized by him may exempt any such offender from reporting any temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

Power to restrict movements of notified offenders.

6. (1) If, in the opinion of the Government, it is expedient to do so, they may, by notification, declare that any notified offender shall be restricted in his movements to a specified area.

(2) Before making any such declaration, the Government shall consider—

(i) the nature of the offences, if any, of which the offender has been convicted and the circumstances in which they were committed ;

(ii) whether the offender follows any lawful occupation, and whether such occupation is a real one or merely a pretence for facilitating the commission of offences ;

(iii) the suitability of the area to which his movements are to be restricted ;

(iv) the manner in which it is proposed that he should earn his living in such area, and the adequacy of the arrangements therefor.

Power to cancel or alter such restrictions.

7. The Government may, by notification, cancel any declaration made under section 6 or alter any area notified under that section or this section ; and the District Magistrate may, by order in writing, alter any area notified under section 6 or this section into any other area situated in his district :

Provided that, before issuing any such notification or order, the Government or the District Magistrate shall consider the matters referred to in section 6, sub-section (2), in so far as they may be applicable.

SETTLEMENTS.

Power to place notified offenders in settlements.

8. The Government may establish industrial, agricultural or reformatory settlements and may order any notified offender to be placed in any such settlement.

Power to discharge or transfer persons from settlements.

9. The Government or any officer authorized by them may, at any time, by order, direct any notified offenders who may be in a settlement to be discharged, or transferred to any other settlement.

Power to subject voluntary residents in settlements to restrictions and penalties.

10. The Government may, by order, direct that any person voluntarily residing in any settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act on a notified offender placed in such settlement.

22nd April 1948]

RULES.

11. (1) The Government may make rules to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

(a) all matters required or allowed by this Act to be prescribed ;

(b) the restrictions to be observed by notified offenders in respect of whom notifications or orders have been issued under section 6 or section 7 ;

(c) the grant of certificates of identity to notified offenders, and the inspection of such certificates ;

(d) the conditions under which notified offenders may be permitted to leave the area to which their movements are restricted or the places in which they are settled ;

(e) the inspection of the residences of notified offenders ;

(f) the terms upon which notified offenders may be discharged from the operation of this Act ;

(g) the management and supervision of settlements including the discipline and conduct of the persons placed in them ;

(h) the periodical review of the cases of all persons who have been placed in any settlement under this Act.

(3) All rules made under this section shall be published in the *Fort St. George Gazette*, and upon such publication shall have effect as if enacted in this Act.

PENALTIES AND PROCEDURE.

12. Any notified offender who contravenes any of the provisions of this Act or any notification, rule or order made thereunder, shall be punishable— Penalties.

(a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ;

(b) on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

13. If a notified offender—

(a) is found outside the area to which his movements have been restricted, in contravention of the conditions under which he is permitted to leave such area, or Arrest of notified offenders

(b) escapes from any settlement in which he has been placed,
he may be arrested without warrant by any police officer, village headman or village watchman and taken before a Magistrate who, on proof of the facts, shall order him to be

[22nd April 1946]

removed to such area or to such settlement, there to be dealt with in accordance with this Act and any rules made thereunder.

Rules for the removal of prisoners to apply in certain cases.

14. Every law or rule for the time being in force governing the removal of prisoners shall apply to all persons ordered to be placed in a settlement under section 8 or to be removed under section 13 :

Provided that no order from the Government or the Inspector-General of Prisons shall be necessary for the removal of such persons.

MISCELLANEOUS.

Bar of jurisdiction.

15. No Court shall question the validity of any notification (other than one under section 3), or order, issued under this Act.

Effect of certain orders passed under Criminal Tribes Act, 1924, etc.

16. (1) In respect of every person who stood registered under the Criminal Tribes Act, 1924 (hereinafter in this section referred to as the said Act) at the commencement of this Act and who, within a period of five years immediately preceding such commencement, had been either ordered to give security for good behaviour with reference to section 110 of the Code of Criminal Procedure, 1898, or convicted of an offence under section 24 of the said Act or of a non-bailable offence under any other law, a notification shall be deemed to have been issued under section 3, sub-section (1), of this Act, declaring him to be subject to all the provisions of this Act; and this Act shall apply to every such person accordingly.

Central Act VI of 1924.

Central Act V of 1898.

(2) Every notification issued in respect of any person under section 3 of the Madras Restriction of Habitual Offenders Act, 1943, and in force at the commencement of this Act, shall be deemed to have been issued under section 3, sub-section (1) of this Act, all references in that notification to the provisions of the said Act and the rules made under it being construed as references to the corresponding provisions of this Act and the rules made under it.

Madras Act XXX of 1943.

(3) Any notification or order issued or made under the said Act in respect of any person referred to in sub-section (1) or sub-section (2), and in force at the commencement of this Act, restricting the movements of such person or placing him in a settlement shall be deemed to have been issued or made under this Act.

(4) All settlements established under section 16 of the said Act and existing at the commencement of this Act shall be deemed to have been established under section 8 of this Act.

Repeal of Madras Act XXX of 1943.

17. The Madras Restriction of Habitual Offenders Act, 1943, is hereby repealed.

Madras Act XXX of 1943.

22nd April 1948]

Madras Act
X of 1947.

18. In the Criminal Tribes (Madras Repeal) Act, 1947—

Amendment
of Madras
Act XI of
1947.

(i) for section 1, sub-section (2), the following sub-section shall be substituted, namely :—

“(2) It shall come into force on the 29th day of April 1948.”;

(ii) in section 2, the words and figures “except for the purposes of section 3 of the Madras Restriction of Habitual Offenders Act, 1943” shall be omitted.

THE SCHEDULE.

[See section 2 (5).]

CHAPTER XII.

Sections.

- 231 Counterfeiting coin.
- 232 Counterfeiting Queen's coin.
- 233 Making or selling instrument for counterfeiting coin.
- 234 Making or selling instrument for counterfeiting Queen's coin.
- 235 Possession of instrument or material for the purpose of using the same for counterfeiting coin.
- 239 Delivery of coin, possessed with the knowledge that it is counterfeit.
- 240 Delivery of Queen's coin possessed with the knowledge that it is counterfeit.
- 242 Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.
- 243 Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI.

- 299 Culpable homicide.
- 307 Attempt to murder.
- 308 Attempt to commit culpable homicide.
- 310 Being a thug.
- 322 Voluntarily causing grievous hurt.
- 326 Voluntarily causing grievous hurt by dangerous weapons or means.
- 327 Voluntarily causing hurt to extort property or to constrain to an illegal act.
- 328 Causing hurt by means of poison, etc., with intent to commit an offence.
- 329 Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.

[22nd April 1918]

Sections.

- 332 Voluntarily causing hurt to deter public servant from his duty.
- 333 Voluntarily causing grievous hurt to deter public servant from his duty.
- 369 Kidnapping child under ten years with intent to steal from its person.

CHAPTER XVII.

- 382 Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.
- 383 Extortion.
- 385 Putting person in fear of injury in order to commit extortion.
- 386 Extortion by putting a person in fear of death or grievous hurt.
- 387 Putting person in fear of death or of grievous hurt in order to commit extortion.
- 390 Robbery.
- 391 Dacoity.
- 393 Attempt to commit robbery.
- 394 Voluntarily causing hurt in committing robbery.
- 397 Robbery or dacoity, with attempt to cause death or grievous hurt.
- 398 Attempt to commit robbery or dacoity when armed with deadly weapon.
- 399 Making preparation to commit dacoity.
- 402 Assembling for purpose of committing dacoity.
- 457 Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.
- 458 Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
- 459 Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
- 460 All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

22nd April 1948]

APPENDIX V.

[Vide item IV (5) on page 182 supra.]

A Bill further to amend the Madras Sales of Motor Spirit Taxation Act, 1939.

(As passed by the Assembly.)

Madras Act
VI of 1939.

WHEREAS it is expedient further to amend the Madras Sales of Motor Spirit Taxation Act, 1939, for the purposes herein-after appearing; It is hereby enacted as follows:—

1. This Act may be called the Madras Sales of Motor Spirit Taxation (Amendment) Act, 1948.

Madras Act
VI of 1939.

2. In the Madras Sales of Motor Spirit Taxation Act, 1939 (hereinafter referred to as the said Act), in section 10 (which relates to penalties)—

Amendment
of section 10,
Madras Act
VI of 1939.

(i) for clause (d), the following clause shall be substituted, namely:—

“(d) fails to pay within the time allowed any tax demanded from him under section 7, sub-section (1), or”;

(ii) in the last paragraph, the words “and where the breach is a continuing one, to a further fine which may extend to fifty rupees for every day after the first during which the breach continues” shall be omitted; and in lieu thereof, the following words shall be inserted, namely:—

“and in the case of a conviction under clause (d) or (e), the Magistrate shall specify in the judgment the amount of the tax which the person convicted has failed or evaded to pay and the amount so specified shall be recoverable as if it were a fine.”

3. In section 24 of the said Act (which relates to appeals), in sub-section (1), clause (a), for the words “Board of Revenue”, the words “Deputy Commissioner of Commercial Taxes for the Range concerned” shall be substituted.

Amendment
of section 24,
Madras Act
VI of 1939.

[22nd April 1948]

APPENDIX VI.

[Vide item IV (6) on page 185 supra.]

A Bill further to amend the Madras Civil Courts Act, 1873.

(As passed by the Assembly.)

WHEREAS it is expedient further to amend the Madras Civil Courts Act, 1873, for the purpose hereinafter appearing; Central Act III of 1873.
 It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Civil Courts (Amendment) Act, 1948.

Insertion of
new section
24-A in Cen-
tral Act III
of 1873.

2. In Part VI of the Madras Civil Courts Act, 1873, before section 25, the following section shall be inserted, namely :— Central Act III of 1873.

Appoint-
ment of
Subordinate
Judge for
two or more
districts.

“ 24-A. (1) Notwithstanding anything contained in this Act, a Subordinate Judge may, where the Provincial Government so direct, be appointed for the area comprised within the local limits of the jurisdiction of two or more District Courts.

(2) A Subordinate Judge so appointed shall hold his court at such place within the jurisdiction of each of the said District Courts and for such period as the High Court may from time to time fix.

(3) The local limits of the jurisdiction of the Subordinate Judge's Court, when it is held at any such place, shall be the same as those of the District Court concerned; but the Subordinate Judge's Court shall not entertain any original suit on proceeding and shall try or dispose of only such suits, appeals and other proceedings as may be transferred to it by the District Court under this Act or any other law.

(4) Appeals from the decrees and orders of the Subordinate Judge in suits or proceedings so transferred shall, where they lie to a District Court, lie to the District Court which transferred the suits or proceedings.”